

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863 FAX (831) 427-4877
www.coastal.ca.gov

F8

CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

For the

November Meeting of the California Coastal Commission

MEMORANDUM

Date: November 16, 2007

TO: Commissioners and Interested Parties
FROM: Charles Lester, Central Coast District Deputy Director
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the November 16, 2007 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

DE MINIMIS WAIVERS

1. 3-07-027-W San Luis Obispo County Parks, Attn: Jan Di Leo; Avila Beach Golf Resort, Attn: Rob Rossi (Avila Beach, San Luis Obispo County)
2. 3-07-053-W City of Pacific Grove (Pacific Grove, Monterey County)
3. 3-07-054-W City of Pacific Grove (Pacific Grove, Monterey County)
4. 3-07-055-W ULTIPRF, LLC, Attn: Ms. Carol Frederick, Manager (At Del Monte Beach In The City Of Monterey, Monterey County)
5. 3-07-056-W Monterey Peninsula Regional Park District, Attn: Tim Jensen, Planning and Conservation Manager (Monterey, Monterey County)

IMMATERIAL AMENDMENTS

1. A-3-SLO-03-117-A1 Brown Family Trust; James & Johanna Townsend (North Coast Planning Area, San Luis Obispo County)

EXTENSION - IMMATERIAL

1. 3-05-060-E1 Mr. & Mrs. Randall A. Reinstedt (, Monterey County)
2. 3-05-059-E1 Stanley W. Pletz (, Monterey County)

<i>TOTAL OF 8 ITEMS</i>

DETAIL OF ATTACHED MATERIALS

REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-07-027-W San Luis Obispo County Parks, Attn: Jan Di Leo Avila Beach Golf Resort, Attn: Rob Rossi	Development of a Class I bicycle and pedestrian pathway connecting the intersection of San Miguel Street/Avila Beach Drive to Avila Park. The project includes a right of way abandonment along Avila Beach Drive to Avila Beach Golf Resort in exchange for the land offered by the Resort for the pathway. The project also includes minor alterations to the golf course to accommodate the pathway.	Between San Miguel Street And Avila Park (parallel to Avila Beach Road), Avila Beach (San Luis Obispo County)
3-07-053-W City of Pacific Grove	Installation of a 14"x14" commemorative plaque to be placed on an existing boulder in the turnout parking area adjacent to the beach. No illumination of plaque is proposed.	Parking area and trail adjacent to Oceanview Boulevard, Pacific Grove (Monterey County)
3-07-054-W City of Pacific Grove	Installation of a swan boat/glass-bottom boat replica/interpretive history monument in Lover's Point Park.	Lover's Point Park, Pacific Grove (Monterey County)
3-07-055-W ULTIPRF, LLC, Attn: Ms. Carol Frederick, Manager	Construct two single-family residences.	207 & 209 Dunecrest Lane (lots 1 & 2, Monterey Shores Estates), At Del Monte Beach In The City Of Monterey (Monterey County)
3-07-056-W Monterey Peninsula Regional Park District, Attn: Tim Jensen, Planning and Conservation Manager	Recontouring and restoration of 3 acres of coastal dunes habitat adjacent to Roberts Lake and State Highway One. Project involves removal of exotic vegetation, recontouring of the dune topography and revegetation with native dune plants.	Just Inland Of Highway One Adjacent To Roberts Lake And Highway 218 In The City Of, Monterey (Monterey County)

REPORT OF IMMATERIAL AMENDMENTS

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
A-3-SLO-03-117-A1 Brown Family Trust; James & Johanna Townsend	Construct two agricultural barns within the previously approved building envelope on Parcel 1.	6925 Jordan Road (Northwest of Cambria Pines Road; approximately 1 mile north of the community of Cambria), North Coast Planning Area (San Luis Obispo County)

REPORT OF EXTENSION - IMMATERIAL

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-05-060-E1 Mr. & Mrs. Randall A. Reinstedt	Construct a new 1,341 square foot, two-story single family residence with attached 467 square foot, two-car garage, driveway, walkway, and wooden deck.	358 Calle De Los Amigos in the Asilomar Dunes area of Pacific Grove, Monterey County
3-05-059-E1 Stanley W. Pletz	Construct a new 2,837 sq.ft. one-story single family dwelling with attached two-car garage, driveway and walkway.	1721 Sunset Drive in the Asilomar Dunes area of Pacific Grove, Monterey County

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: November 1, 2007
TO: San Luis Obispo County Parks, Attn: Jan Di Leo; Avila Beach Golf Resort,
Attn: Rob Rossi
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-07-027-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: San Luis Obispo County Parks, Attn: Jan Di Leo; Avila Beach Golf Resort, Attn: Rob Rossi
LOCATION: Between San Miguel Street And Avila Park (parallel to Avila Beach Road), Avila Beach (San Luis Obispo County) (APN(s) 076-181-33, 076-181-35, 076-181-39)
DESCRIPTION: Development of a Class I bicycle and pedestrian pathway connecting the intersection of San Miguel Street/Avila Beach Drive to Avila Park. The project includes a right of way abandonment along Avila Beach Drive to Avila Beach Golf Resort in exchange for the land offered by the Resort for the pathway. The project also includes minor alterations to the golf course to accommodate the pathway.
RATIONALE: The construction of this segment of the Bob Jones Bicycle and Pedestrian Path has no potential for adverse effects on coastal resources (including public access), and is consistent with Chapter 3 of the Coastal Act. The pathway is not located in an environmentally sensitive habitat area and includes construction and post-construction best management practices (BMP's) to protect coastal resources. The proposed project will provide high priority public access and recreation facilities at this popular visitor-serving destination, and will thus enhance public access and recreational opportunities to and along the shoreline.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Friday, November 16, 2007, in San Diego. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: DAN CARL
District Manager

A handwritten signature in black ink, appearing to read "DAN CARL", written over the printed name.

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: November 1, 2007
TO: City of Pacific Grove
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-07-053-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: City of Pacific Grove

LOCATION: Parking area and trail adjacent to Oceanview Boulevard, Pacific Grove (Monterey County) (APN(s) 006-021-99)

DESCRIPTION: Installation of a 14"x14" commemorative plaque to be placed on an existing boulder in the turnout parking area adjacent to the beach. No illumination of plaque is proposed.

RATIONALE: The proposed project will enhance public access and recreation opportunities along the shoreline by establishing a commemorative point of interest at an existing public parking turnout area. The proposed 14" x 14" plaque will be placed on an existing rock boulder and will not interfere with scenic coastal views or public access to the shoreline. As such, the proposed project will not adversely effect coastal resources (including public access) and is consistent with Chapter 3 of the Coastal Act.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Friday, November 16, 2007, in San Diego. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: DAN CARL
District Manager

A handwritten signature in black ink, appearing to read "Dan Carl", written over a horizontal line.

cc: Local Planning Dept.

Pacific Grove Parks & Recreation Department, Attn: John Miller, Director

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: November 1, 2007
TO: City of Pacific Grove
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-07-054-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: City of Pacific Grove

LOCATION: Lover's Point Park, Pacific Grove (Monterey County) (APN(s) 006-155-99)

DESCRIPTION: Installation of a swan boat/glass-bottom boat replica/interpretive history monument in Lover's Point Park.

RATIONALE: The project would result in installation of a replica of the glass bottom boats that historically operated out of the cove at Lover's Point, and will include interpretive materials designed for the public. The proposed project will enhance public access and recreation opportunities at Lover's Point Park by introducing a historic monument and thematic touchstone for Pacific Grove that will be appropriately signed and interpreted. The boat replica will be placed above the beach at the rear of the park on an existing concrete promenade. The proposed development will not otherwise adversely impact scenic coastal views or public access to the shoreline. As such, the proposed project will not adversely effect coastal resources (including public access) and is consistent with Chapter 3 of the Coastal Act.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Friday, November 16, 2007, in San Diego. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: DAN CARL
District Manager

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cc: Local Planning Dept.

Pacific Grove Parks & Recreation Department, Attn: John Miller, Director

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: November 1, 2007
TO: ULTIPRF, LLC, Attn: Ms. Carol Frederick, Manager
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-07-055-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: ULTIPRF, LLC, Attn: Ms. Carol Frederick, Manager

LOCATION: 207 & 209 Dunecrest Lane (lots 1 & 2, Monterey Shores Estates), At Del Monte Beach In The City Of Monterey (Monterey County) (APN(s) 001-591-14, 001-591-15)

DESCRIPTION: Construct two single-family residences.

RATIONALE: The proposed development includes construction of two single-family residences in the Del Monte Beach re-subdivision. The Commission approved the re-subdivision in 2002 (CDP 3-01-101). That approval included re-subdivision and merger of 60 existing lots into 14 lots and 3 open space/habitat preserve parcels, public access amenities (e.g. boardwalks), protection of environmentally sensitive dune habitat, storm water management, as well as water availability, construction best management practices, and all infrastructure improvements necessary to serve future residential development in the re-subdivision. Approval of CDP 3-01-101 also included design and lot development standards for each parcel. The proposed single-family residences comply with the approved design and lot development standards. Impacts to coastal resources and public access due to residential development were addressed adequately in CDP 3-01-101. Thus, the proposed development involves no potential additional adverse effects on coastal resources (including public access to the shoreline) past that already understood, addressed, and approved through CDP 3-01-101, and is consistent with Chapter 3 of the Coastal Act otherwise.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Friday, November 16, 2007, in San Diego. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: DAN CARL
District Manager

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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

DATE: November 1, 2007
TO: Monterey Peninsula Regional Park District, Attn: Tim Jensen, Planning and Conservation Manager
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver De Minimis Number 3-07-056-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: Monterey Peninsula Regional Park District, Attn: Tim Jensen, Planning and Conservation Manager
LOCATION: Just inland of Highway One adjacent to Roberts Lake and Highway 218 in the City of Monterey (Monterey County) (APN(s) 011-424-01, 011-424-02, 011-432-11, 011-432-12)
DESCRIPTION: Recontouring and restoration of 3 acres of coastal dunes habitat adjacent to Roberts Lake and State Highway One. Project involves removal of exotic vegetation, recontouring of the dune topography and revegetation with native dune plants.
RATIONALE: Proposed development will restore and enhance degraded dune ESHA on a 3 acre site adjacent to Roberts Lake, State Highway One, and a public recreation trail along Roberts Avenue. The project will enhance native dune habitat, and has no potential for adverse effects on coastal resources (including public access) and is consistent with Chapter 3 of the Coastal Act.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Friday, November 16, 2007, in San Diego. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: DAN CARL
District Manager

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cc: Local Planning Dept.

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**NOTICE OF PROPOSED PERMIT AMENDMENT**

TO: All Interested Parties
FROM: Peter Douglas, Executive Director *by Douglas*
DATE: November 1, 2007
SUBJECT: **Permit No: A-3-SLO-03-117**
Granted to: Brown Family Trust; James & Johanna Townsend

Original Description:

for **Division of two parcels (of 117.56 acres and 80 acres) into three parcels (of 97.34, 45.22, and 55 acres); conversion of an existing 1,200 square foot residence to storage, and relocation of the water meter to the new 45.22 acre parcel.**

at **6925 Jordan Road (Northwest of Cambria Pines Road; approximately 1 mile north of the community of Cambria), North Coast Planning Area (San Luis Obispo County)**

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following changes:

Construct two agricultural barns within the previously approved building envelope on Parcel 1.

FINDINGS

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled meeting. This amendment has been considered IMMATERIAL for the following reason(s):

The construction of two agricultural barns within the previously approved development envelope on Parcel 1 has no potential for adverse impacts on coastal resources, including public access. The barns will be located in an area previously approved for development that was not considered environmentally sensitive habitat area (ESHA), and will be set back more than 100 feet from the surrounding native Monterey pine forest ESHA to allow for both adequate habitat buffering and any necessary fire clearance without ESHA impact.

If you have any questions about the proposal or wish to register an objection, please contact Jonathan Bishop at the Central Coast District office.

cc: Local Planning Dept.

John W. Belsher

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November 1, 2007

NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT PERMIT

Notice is hereby given that: **Mr. & Mrs. Randall A. Reinstedt**
has applied for a one year extension of Permit No: **3-05-060**
granted by the California Coastal Commission on: January 11, 2006

for **Construct a new 1,341 square foot, two-story single family residence with attached 467 square foot, two-car garage, driveway, walkway, and wooden deck.**
at **358 Calle De Los Amigos in the Asilomar Dunes area of Pacific Grove, Monterey County**

Pursuant to Section 13169 of the Commission Regulations the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive. . . and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,
PETER M. DOUGLAS
Executive Director

A handwritten signature in black ink, appearing to read "DAN CARL".

By: DAN CARL
District Manager

cc: Local Planning Dept.

McElroy Construction Co., Attn: Dennis Mc Elroy

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November 1, 2007

NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT PERMIT

Notice is hereby given that: **Stanley W. Pletz**
has applied for a one year extension of Permit No: **3-05-059**
granted by the California Coastal Commission on: January 11, 2006

for **Construct a new 2,837 sq.ft. one-story single family dwelling with attached two-car garage, driveway and walkway.**

at **1721 Sunset Drive in the Asilomar Dunes area of Pacific Grove, Monterey County**

Pursuant to Section 13169 of the Commission Regulations the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive. . . and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,
PETER M. DOUGLAS
Executive Director

A handwritten signature in black ink, appearing to read 'DAN CARL'.

By: DAN CARL
District Manager

cc: Local Planning Dept.

McElroy Construction Company, Attn: Dennis McElroy

CALIFORNIA COASTAL COMMISSION

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SANTA CRUZ, CA 95060
(831) 427-4863



November 15, 2007

To: Commissioners and Interested Parties

From: Charles Lester, Senior Deputy Director, Central Coast District

Re: Additional Information for Commission Meeting Friday, November 16, 2007

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
F10c, SLO-MAJ-1-06 Part 2	SLO County	Ex Parte	1
		Correspondence	2
F11a, A-3-MCO-06-018	Foster	Staff Report Addendum/ExPartes & Correspondence	5
F11b, A-3-MRB-06-064	Colmer	ExPartes Correspondence	33
F11c, A-3-GRB-07-051	IGIT, Inc.	Staff Report Addendum	41
		ExPartes	43
		Correspondence	45
F12b, 3-07-022	ZHG, Inc.	Correspondence	60

F10c

RECEIVED

NOV 13 2007

FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Name or description of the project: San Luis Obispo LCP Major Amendment 1-06 Part 2
(Fiscalini Ranch).

Time/Date of communication: 11/9/2007, 11am

Location of communication: 22350 Carbon Mesa Rd., Malibu

Person(s) initiating communication: Mickie Burton, Rick Hawley

Person(s) receiving communication: Sara Wan

Type of communication: phone call

County requesting postponement- want to bifurcate part 1 and part 2 of the LCP so that they can approve the cell tower under current zoning. There is no "good cause" for the delay. The letter from Vicki Holanda states that they have been working on the cell tower for 10 years but that is not correct; that was a ranch that was scheduled for residential development until 2000 when it was purchased for protection.



Date: 11/11/07

Sara Wan

RECEIVED

F10c

NOV 13 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Lori Slater
P.O. Box 1147
Cambria, CA. 93428

9 November 2007

California Coastal Commissioners:

Steve Blank, Sara Wan, William Burke, Steven Kram, Mary Shallenberger, Patrick Kruer, Bonnie Neely, Mike Reilly, Dave Potter, Khatchik Achagian, Larry Clark and Ben Hueso

California Coastal Alternate Commissioners: James Wickett, April Vargas, Dan Secord, Deborah Schoenbaum, Adi Liberman, Sharon Wright, Steve Kinsey, Brooks Firestone, Suja Lowenthal and Lorena Gonzales

California Coastal Commission Staff Coastal Planner Jonathan Bishop

725 Front St., Suite 300

Santa Cruz, CA. 95060

Dear Representatives of the California Coastal Commission,

Regarding item F10C San Luis Obispo County LCP Amendment #SLO-MAJ-1-06 part 2 Fiscalini Ranch time extension request, I urge you **not** to allow an extension on county consideration of changes tightening restrictions on use of land at the Fiscalini Ranch Preserve.

Please uphold your sound decision to ban the use of cell towers on the Fiscalini Ranch Preserve in San Luis Obispo County.

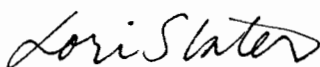
The stewards of this Preserve, the Friends of the Fiscalini Ranch Preserve, have lost sight of their purpose. Their backing of the Sprint Nextel Cell Tower project contradicts their mission statement which "**promise[s] this community to preserve and protect the very nature of the Ranch...FOREVER**". This is in violation of the its trust.

The Fiscalini Ranch Preserve would be compromised by the impact of commercial structures and activity.

It is in our best interest to deny commercial development in this environmentally sensitive habitat. We rely on the California Coastal Commission for its foresight and courageous action.

Thank you for your consideration regarding this issue.

Sincerely,



Lori Slater



F10c

Post Office Box 174 • Cambria, California 93428

RECEIVED

November 9, 2007

NOV 13 2007

Patrick Kruer, Chairman
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, Ca 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

**RE: San Luis Obispo County LCP Amendment No. SLO-MAJ-1-06 Part 2
Fiscalini Ranch request for Time Extension.**

Dear Chairman Kruer and Coastal Commission Commissioners:

LandWatch San Luis Obispo County is a California Public Benefit non-profit corporation interested in, among other things, preservation and protection of natural and cultural resources on or near the coast of San Luis Obispo County.

LandWatch objects to San Luis Obispo County's request for an extension of the expiration date of approval of Part 2 of San Luis Obispo County LCP major amendment 1-06 based on the following:

Lack of "Good Cause" for an Extension

The time extension should be denied because no "good cause" has been stated and no "good cause" can be found.

The Coastal Act and Commission regulations allow for the time extension only based on a finding of "good cause". What is "good cause"? Coastal Act section 30009 requires that the Coastal Act must be interpreted to "accomplish its purposes and objectives" of the Act. "Good cause" then, must be interpreted as something that furthers the purposes and objectives of the Act.

In his October 29, 2007 letter, to coastal commission staff requesting the time extension San Luis Obispo County Planning Director Victor Holanda stated that the purpose of the extension is to allow a proposed wireless communication facility (cell towers) to be approved in protected Monterey pine forest (ESHA) under outdated and inappropriate zoning.


San Luis Obispo County wants to slip in approval of unneeded cell tower development on the now-protected Fiscalini Ranch Preserve under obsolete residential zoning. This land, once slated for residential development (750 homes), has been purchased with local and state funds for the very purpose of protecting the untouched forest and wetland resources for the people of the State of California.

If allowed to delay its acceptance of the certified LCP amendment, that was certified by coastal commission unanimous decision on July 11, 2007 in San Luis Obispo the County will keep residential zoning on the Fiscalini Ranch Preserve just long enough to approve a major cell tower development before Open Space zoning takes effect. The site for the development was selected because it would bring in money in the form of leases from multiple wireless carriers to the cash starved Cambria Community Services District. There is no record of any alternative site selection process to prove a significant gap in the carrier's service area and that no feasible viable sites would not serve the carrier's purpose.

The delay requested would not further the Coastal Act purposes and the reason for the delay does not provide "good cause" under the Coastal Act.

Respectively submitted,

LandWatch of San Luis Obispo County



2007.11.09 16:41:12
-08'00'

Mahala Burton, Director

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877

F11a

**Staff Report Addendum**

Date: November 14, 2007
To: Commissioners and Interested Parties
From: Charles Lester, Senior Deputy Director
Katie Morange, Coastal Planner
Subject: Addendum to 11/1/07 Staff Report Prepared for the 11/16/07 Hearing (Agenda Item F11a) Regarding the Foster Project (Appeal No. A-3-MCO-06-018)

The following exhibits have been added to the staff report.

- P.1 Commissioner Ex Parte Communications (additional)
- Q Correspondence from Dr. V. Thomas Parker and Mr. Eric Van Dyke
- R Coastal Commission staff memorandums (dated December 5, 2006 and May 7, 2007)
- S Correspondence from Applicant's Representative (Response to November 2007 Coastal Commission Staff Report, dated November 9, 2007)

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name of project: **Steven and Gillian Foster Residence;**
Date and time: **October 31, 2007; 11:00 a.m.**
Location of communication: **Pescadero, CA**
Type of communication: **face-to-face meeting**
Person initiating communication: **Steven and Gillian Foster, Applicants**
Susan McCabe, McCabe & Company
Rick Zbur, Latham & Watkins

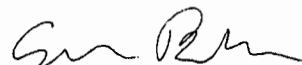
Detailed substantive description of content of communication:

Steven and Gillian Foster, Susan McCabe and Rick Zbur gave me a briefing on the Fosters' proposed single-family home. The applicants discussed the contents of the briefing package that they informed me has been provided to Commission staff and is in the Commission record for this matter. The applicants covered the issues contained in the briefing package, including:

- Overview of the project;
- The project is the most environmentally sensitive alternative;
- There is no published peer reviewed authority that would define plants on the property as central maritime chaparral;
- The chaparral on their property is not ESHA;
- Adopting the Staff's recommendations would result in a multi-million dollar taking;
- The proposed Resource Protection Plan fully protects "non-rare" chaparral on the property;
- Viewshed studies show that the project as proposed is not visible from public viewpoints;
- The applicants' request that the Commission approve the project as proposed without the recommended ESHA designation, 100-foot chaparral and FMZ buffer, and viewshed relocation.

11/6/07

Date



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CALIFORNIA
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CENTRAL COAST AREA**FORM FOR DISCLOSURE OF
EX PARTE COMMUNICATIONS**

FRIDAY, ITEM 1

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Name or description of project, LPC, etc: Steven and Gillian Foster Residence;
County of Monterey

Date and time of receipt of communication: November 8, 2007; 10:00 a.m.

Location of communication: La Jolla

Type of communication (letter, facsimile, etc.): face-to-face meeting

Person(s) receiving communication: Brooks Firestone and Dan Secord

Person(s) initiating communication: Steven and Gillian Foster, Applicants
Susan McCabe, McCabe & Company
Rick Zbur, Latham & Watkins

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Steven and Gillian Foster, Susan McCabe and Rick Zbur gave me a briefing on the Fosters' proposed single-family home. The applicants discussed the contents of the briefing package that they informed me has been provided to Commission staff and is in the Commission record for this matter. The applicants covered the issues contained in the briefing package, including:

- Overview of the project;
- The project is the most environmentally sensitive alternative;
- There is no published peer reviewed authority that would define plants on the property as central maritime chaparral;
- The chaparral on their property is not ESHA;
- Adopting the Staff's recommendations would result in a multi-million dollar taking;
- The proposed Resource Protection Plan fully protects "non-rare" chaparral on the property;
- Viewshed studies show that the project as proposed is not visible from public viewpoints;
- The applicants' request that the Commission approve the project as proposed without the recommended ESHA designation, 100-foot chaparral and FMZ buffer, and viewshed relocation.

Date

11/12/07

CCC Exhibit P.1
(page 2 of 5 pages)


Commissioner Signature

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FORM FOR DISCLOSURE OF
EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc: Steven and Gillian Foster Residence:
County of Monterey

Date and time of receipt of communication: November 9, 2007: 10:00 AM

Location of communication: Phone call

Type of communication (letter, facsimile, etc.): Phone call

Person(s) initiating communication: Susan McCabe

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Susan McCabe gave me a briefing on the Fosters' proposed single-family home. The applicants discussed the contents of the briefing package that they informed me has been provided to Commission staff and is in the Commission record for this matter. Susan covered the issues contained in the briefing package, including:

- Overview of the project;
- The project is the most environmentally sensitive alternative;
- There is no published peer reviewed authority that would define plants on the property as central maritime chaparral;
- The chaparral on their property is not ESHA;
- Adopting the Staff's recommendations would result in a multi-million dollar taking;
- The proposed Resource Protection Plan fully protects "non-rare" chaparral on the property;
- Viewshed studies show that the project as proposed is not visible from public viewpoints;
- The applicants' request that the Commission approve the project as proposed without the recommended ESHA designation, 100-foot chaparral and FMZ buffer, and viewshed relocation.

11-9-07
Date

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Commissioner Neely

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CENTRAL COAST AREA

CCC Exhibit P.1
(page 3 of 5 pages) 9

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COASTAL COMMISSION

FRIDAY, ITEM 11A

**FORM FOR DISCLOSURE OF
EX PARTE COMMUNICATIONS****RECEIVED**
NOV 13 2007
CALIFORNIA
COASTAL COMMISSION

Name or description of project, LPC, etc: Steven and Gillian Foster Residence;
County of Monterey

Date and time of receipt of communication: November 8, 2007; 10:00 a.m.

Location of communication: La Jolla

Type of communication (letter, facsimile, etc.): face-to-face meeting

Person(s) receiving communication: ~~DAF Kruer~~

Person(s) initiating communication: Steven and Gillian Foster, Applicants
Susan McCabe, McCabe & Company
Rick Zbur, Latham & Watkins

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Steven and Gillian Foster, Susan McCabe and Rick Zbur gave me a briefing on the Fosters' proposed single-family home. The applicants discussed the contents of the briefing package that they informed me has been provided to Commission staff and is in the Commission record for this matter. The applicants covered the issues contained in the briefing package, including:

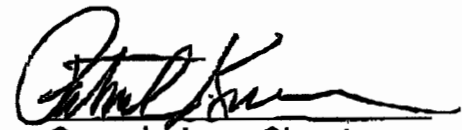
- Overview of the project;
- The project is the most environmentally sensitive alternative;
- There is no published peer reviewed authority that would define plants on the property as central maritime chaparral;
- The chaparral on their property is not ESHA;
- Adopting the Staff's recommendations would result in a multi-million dollar taking;
- The proposed Resource Protection Plan fully protects "non-rare" chaparral on the property;
- Viewshed studies show that the project as proposed is not visible from public viewpoints;
- The applicants' request that the Commission approve the project as proposed without the recommended ESHA designation, 100-foot chaparral and FMZ buffer, and viewshed relocation.

Date

11/12/07

CCC EXHIBIT P.1
PAGE 4 OF 5

Commissioner Signature



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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

FRIDAY, ITEM 11A

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project , LPC, etc: Steven and Gillian Foster Residence;
County of Monterey

Date and time of receipt of communication: November 7, 2007; 10:00 a.m.

Location of communication: SB County Administration Building

Type of communication (letter, facsimile, etc.): face-to-face meeting

Person(s) receiving communication: Brooks Firestone and Dan Secord

Person(s) initiating communication: Steven and Gillian Foster, Applicants
Susan McCabe, McCabe & Company
Rick Zbur, Latham & Watkins

Detailed substantive description of content of communication:

(Attach a copy of the complete text of any written material received.)

Steven and Gillian Foster, Susan McCabe and Rick Zbur gave me a briefing on the Fosters' proposed single-family home. The applicants discussed the contents of the briefing package that they informed me has been provided to Commission staff and is in the Commission record for this matter. The applicants covered the issues contained in the briefing package, including:

- Overview of the project;
- The project is the most environmentally sensitive alternative;
- There is no published peer reviewed authority that would define plants on the property as central maritime chaparral;
- The chaparral on their property is not ESHA;
- Adopting the Staff's recommendations would result in a multi-million dollar taking;
- The proposed Resource Protection Plan fully protects "non-rare" chaparral on the property;
- Viewshed studies show that the project as proposed is not visible from public viewpoints;
- The applicants' request that the Commission approve the project as proposed without the recommended ESHA designation, 100-foot chaparral and FMZ buffer, and viewshed relocation.

Date

Dan Secord, M.D.

Commissioner Signature

CCC EXHIBIT P. 1
PAGE 5 OF 5



San Francisco
State University

Department of Biology
San Francisco State University
1600 Holloway Avenue
San Francisco, California 94132

Tel: 415/338-1549
FAX: 415/338-2295

30 October 2007

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Jonna D. Engel, Ecologist
California Coastal Commission
South Central Coast Area
89 South California St., Suite 2000
Ventura, CA 93001

Dear Dr. Engel:

I have reviewed the staff determination (December 5, 2006) and addendum (May 7, 2007) regarding the Foster property project.

Determining boundaries of vegetation types within a life form, one type of chaparral versus another, can be difficult, especially when the underlying physical processes shift in a gradient fashion. With regard to this site, the issue seems to be whether the particular combination of species found at the site is maritime chaparral or not. In particular, one argument seems to be that *Arctostaphylos glandulosa* subsp. *glandulosa* and *A. glandulosa* subsp. *cushingiana* also occur at the site and that their presence suggests non-maritime conditions, and that the other indicator species of maritime conditions, *Ceanothus cuneatus* var. *rigidus*, *Vaccinium ovatum* and *Chrysolepis chrysophylla*, are insufficient.

I have not visited the site and I am therefore not certain of the specific conditions of the location, but given the list of species, I would conclude this is a maritime chaparral location. Fog levels and influences vary among seasons and conditions, and maritime species also vary in their tolerances. The presences of *Ceanothus cuneatus* var. *rigidus*, a plant completely restricted to maritime conditions, is sufficient to indicate that this is a variant of maritime chaparral.

Arctostaphylos glandulosa subsp. *glandulosa* and *A. glandulosa* subsp. *cushingiana* certainly occur under a variety of conditions, but they are species that also occur within maritime conditions. For example, along the coast north of San Mateo County, these two taxa are dominants of the most extreme maritime conditions, co-occurring with other manzanitas and *Ceanothus* species restricted globally to foggy conditions. I just completed a report, for example, for Point Reyes National Seashore (Status and management recommendations for *Arctostaphylos virgata* [Marin Manzanita] in Point Reyes National Seashore). On Point Reyes peninsula, *Arctostaphylos glandulosa* subsp. *cushingiana* dominates the maritime chaparral along with *A. virgata*, *A. uva-ursi* and *A. x repens*. Maritime *Ceanothus* species are also present, specifically *Ceanothus thyrsiflorus*, *C. gloriosus* var. *gloriosus*, and *C. gloriosus* var. *porrectus*. Nearby on Bolinas Ridge, on the ocean-facing side of the ridge, *Arctostaphylos glandulosa* subsp. *glandulosa* dominates along with *A. virgata*, *A. sensitiva*, *C. gloriosus* var. *exaltatus* and *C. masonii*. All of the species listed, except for the two *A. glandulosa* subspecies and *A. uva-ursi*, are globally restricted to foggy maritime conditions, and within coastal California, *A. uva-ursi* is an indicator of maritime conditions, found only at the extreme coast. Farther south in San Mateo County, other sets of *Arctostaphylos* or *Ceanothus* species indicate maritime conditions. What is also striking about all these sites is the additional presence of *Vaccinium ovatum* and *Chrysolepis chrysophylla* included within

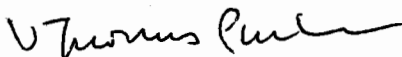
the open chaparral areas. Outside of maritime conditions, these taxa appear to be restricted to shadier forested sites. Only under maritime conditions have I seen them as co-dominants in chaparral.

I'm more familiar with these locations than the Big Sur coastal areas. However, in Carmel Valley, I have been taken to sites on one property in which *A. tomentosa* subspecies dominated one ridge closest to the ocean, while they were replaced by *A. glandulosa* subspecies on the next ridge, even though both sites were well within the fog zone. This simply means that *A. tomentosa* or *A. crustacea* subspecies are more limited in their distribution and are more sensitive to either drought or temperature than are *A. glandulosa* subspecies, not that *A. glandulosa* subspecies fail to occur under maritime conditions.

In summary, the combination of *Ceanothus cuneatus* var. *rigidus*, along with *Vaccinium ovatum* and *Chrysolepis chrysophylla* within the chaparral are strong indicators of maritime chaparral. The first species is globally restricted to maritime conditions, while the other two are found in open chaparral only under maritime conditions along the coast. The presence of *A. glandulosa* subspecies do not invalidate that conclusion, as they are also common within maritime conditions.

By way of context, I have conducted ecological research within chaparral for the last 3 decades, and am an author of the treatment of *Arctostaphylos* for the Flora of North America and the 2nd edition of the Jepson Manual.

Best regards,



V. Thomas Parker
Professor of Biology
Department of Biology
San Francisco State University

November 1, 2007

Jonna D. Engel, Ph.D.
California Coastal Commission
89 South California St., Suite 200
Ventura, CA 93001

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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Jonna,

Because of my continuing research interest in the distribution of maritime chaparral habitat in the central coast area, I have followed the application and appeal of the proposed Foster project (A-3-MCO-06-018) with great interest.

I have also followed, with similar interest, the efforts of the ESNERR Coastal Training Program to reach consensus among experts on a definition of maritime chaparral habitat and the initiation of regional maritime chaparral delineation.

I am familiar with the vegetation on Rocky Ridge / Cushing Mountain through historical and contemporary chaparral mapping activities as well as through targeted species surveys (*Piperia yadonii*, present on the ridge northwest of the Foster site, and *Arctostaphylos edmundsii*, restricted to the ridge's lower slopes). The relatively continuous chaparral stand that I mapped, including portions of Foster property, comprises a gradient ranging from the immediate coast where *Arctostaphylos tomentosa* dominates (and the subspecies *A. tomentosa rosei*, as well as *A. edmundsii*, are present) to the higher ridgeline where *A. glandulosa* (and the subspecies *A. glandulosa cushingiana*) dominate. Similar within-stand gradients are present in chaparral stands farther north in the Point Lobos uplands.

Species composition (notably the dominant *Arctostaphylos* and *Ceanothus* shrub species) varies considerably from stand to stand as well as within maritime chaparral stands. Nevertheless, particular climatic and edaphic preferences—and therefore the presence of specific indicator species—characterize the maritime chaparral habitat type. In the vicinity of the Foster site, the presence of *Ceanothus cuneatus* var. *rigidus* (Monterey Ceanothus), *Vaccinium ovatum* (California Huckleberry), *Chrysolepis chrysophylla* (Golden Chinquapin) and, of course, *Sequoia sempervirens* (Coast Redwood) constitute such indicator species.

In summary, I concur with California Coastal Commission staff's determination that central maritime chaparral habitat is present within the proposed project area and urge the Commission to observe the Coastal Act's ESHA protections on this site.

Sincerely,



Eric Van Dyke
Geographical Ecologist
Elkhorn Slough National Estuarine Research Reserve
1700 Elkhorn Road, Watsonville, CA 95076

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



M E M O R A N D U M

FROM: Jonna D. Engel, Ph.D.
Ecologist

TO: Katie Morange
Analyst

SUBJECT: Proposed Foster Residence Chaparral Plant Community Determination

DATE: December 5, 2006

Documents reviewed:

California Natural Diversity Database. 2006. California Department of Fish and Game.
<http://www.dfg.ca.gov/bdb/html/cnddb.html>.

California Native Plant Society. 2001. Inventory of rare and endangered plants of California. David P. Tibor, Convening editor. CNPS, Sacramento, CA.

Griffin, JR. 1978. Maritime chaparral and endemic shrubs of the Monterey Bay region, California. Madrono, Vol. 25 (2) pp. 65-112.

Haley, V., B. Mori, K. Lyons & J. Gilchrist (Habitat Restoration Group). 1991. Rocky Creek Ranch EIR Biotic Assessment. Prepared for Denise Duffy and Associates.

Hayes, G. Editor. 2003. Conservation and ecology of California's maritime chaparral: workshop follow-up questions and answers. Coastal Training Program; Elkhorn Slough National Estuarine Research Reserve.

Holland, R.F. 1986. Preliminary description of the terrestrial natural communities of California. California Department of Fish and Game.

Juncosa, A. Aug. 8, 2006. Letter to Mark Blum, Horan, Lloyd, Karachale, Dyer, Schwartz, Law & Cook from Adrian Juncosa, Senior Ecologist, Ecosynthesis. Subject: Characterization of Chaparral at Foster Property Site.

Monterey County. November 17, 2005. Initial Study Mitigated Negative Declaration. File # PLN040569

Norman, Jeff. November 22, 2004 Preliminary Biological Report: Foster property (APN 418-132-007), Cushing Mountain, Big Sur.

Odion, D. and C. Tyler. 2002. Are long fire-free periods needed to maintain the endangered, fire-recruiting shrub *Arctostaphylos morroensis*(Ericaceae)?

Conservation Ecology 6 (2): 4. [online] URL:
<http://www.consecol.org/vol6/iss2/art4/>

Sawyer, J. & T. Keeler-Wolf. 1995. A manual of California vegetation. California Native Plant Society.

Sawyer, J. Dec. 14, 2004. Email to Grey Hayes describing most recent maritime chaparral definition.

Vandevere, Jud. Biological Consulting. March 9, 2005a. Letter to Eric Lee, Monterey County Planning and Building Inspection Department. Re: Foster Project-File No.: PLN040569 (APN 418-132-007-000). Performance criteria and cost estimate for restoration.

Vandevere, Jud. March 22, 2005b. Letter to Eric Lee, Monterey County Planning and Building Inspection Department. Re: Foster Project-File No.: PLN040569 (APN 418-132-007-000). March Census.

Vandevere, Jud. May 1, 2005c. Letter to Eric Lee, Monterey County Planning and Building Inspection Department. Re: Foster Project-File No.: PLN040569 (APN 418-132-007-000). April Census.

Vandevere, Jud. June 22, 2005d. Letter to Eric Lee, Monterey County Planning and Building Inspection Department. Re: Foster Project-File No.: PLN040569 (APN 418-132-007-000). May Census.

Vandevere, Jud. July 22, 2005e. Letter to Jeff Main, Monterey County Planning and Building Inspection Department. Re: Foster Project-File No.: PLN040569 (APN 418-132-007-000). July Census.

Vandevere, Jud. July 25, 2005f. Letter to Jeff Main, Monterey County Planning and Building Inspection Department. Re: Foster Project-File No.: PLN040569 (APN 418-132-007-000). Restoration Plan.

Vandevere, Jud. September 29, 2005g. Letter to Stephanie Strelow, Monterey County Planning and Building Inspection Department. Re: Foster Project-File No.: PLN040569 (APN 418-132-007-000). Habitat Impacts.

Van Dyke, E. & K. Holl. April 26, 2003. Mapping the Distribution of Maritime Chaparral Species in the Monterey Bay Area. Prepared for the U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office

Van Dyke, E., K.D. Holl, & J.R. Griffin. 2001. Maritime chaparral community transition in the absence of fire. Madrono, Vol. 48 (4) pp. 221-229.

Van Dyke, E. Aug. 29, 2006. Maritime Chaparral South of the Monterey Peninsula.
(Memo describing Big Sur maritime chaparral written for the California Coastal Commission)

Van Dyke, E. October 30, 2006. Email from Erik Van Dyke to Adrian Juncosa . CC: Grey Hayes, John Dixon, Katie Morange.

The Foster Property is a 78-acre parcel located in Section 8, T18S R1E on Cushing Mountain, which is the ridge dividing Rocky Creek from Palo Colorado Creek (Norman 2004). The elevation at the site ranges from 800 to approximately 1400 feet. The Foster development proposal includes various structures covering 7,400 square feet, a swimming pool and patio, gardens, roads, pathways, utility lines, septic system and a significant amount of excavation. In addition, the California Department of Forestry requires 100-foot fuel clearings around all structures. Such fuel modification is also "development" under the Coastal Act.

The vegetation at the Foster site is comprised of redwood and mixed evergreen forest adjacent to or interdigitated with scrub vegetation and grassland. The scrub vegetation has been variously described. The environmental impact report described the site as "northern mixed chaparral" (HRC 1991) and identified shaggy-barked manzanita (*Arctostaphylos tomentosa*) as the dominant plant species in this community. The EIR also noted that Monterey ceanothus (*Ceanothus cuneatus* var. *rigidus*) and chamise (*Adenostoma fasciculatum*) were present in this community. In a later preliminary biology report (Norman 2004), the predominant vegetation was described as "central maritime chaparral, "...dominated by Eastwood's manzanita (*Arctostaphylos glandulosa*); also present is shaggy-barked manzanita (*A. tomentosa*), chamise (*Adenostoma fasciculatum*), warty-leaved ceanothus (*Ceanothus papillosus* var. *papillosus*, the rare Monterey ceanothus (*C. cuneatus* var. *rigidus*), coast silk-tassel (*Garrya elliptica*), poison oak (*Toxicodendron diversilobum*), and yerba santa (*Eriodictyon californicum*)." Norman estimated that 5000 square feet of maritime chaparral had been removed from the proposed development footprint prior to his survey by cutting and herbiciding. A series of additional botanical surveys were conducted in 2005 by Jud Vandever. Vandever (2005a) listed the following species as resprouting and growing on the Foster property: *Adenostoma fasciculatum*; *Arctostaphylos tomentosa* ssp. *tomentosa*, *Arctostaphylos glandulosa* var. *cushingiana*, *Artemisia californica*, *Baccharis pilularis* ssp. *consanguinea*, *Eriodictyon californicum*, *Garrya elliptica*, *Lupinus chamissonis*, *Rhamnus californica*, *Salvia mellifera*, and *Toxicodendron diversilobum*. In later surveys, Vandever (2005 b-e) also documents the presence of *Ceanothus cuneatus* var. *rigidus* within the development footprint. Ten of these species are characteristic of the woollyleafed manzanita vegetation series (Sawyer and Keeler-Wolf 1995). Woollyleaf manzanita chaparral, or central maritime chaparral, is listed as a rare habitat type in the California Department of Fish and Game's Natural Diversity Database (CNDDB, 2006).

There appears to be consensus that various species that are characteristic of central maritime chaparral, including shaggy-bark manzanita (*Arctostaphylos tomentosa*) and Monterey ceanothus (*Ceanothus cuneatus* var. *rigidus*), occur within the development footprint at the Foster site. Nevertheless, there is some disagreement as to whether the scrub vegetation on the site is properly classified as central maritime chaparral.

Griffin (1978) described maritime chaparral as consisting "of variable sclerophyll shrub communities within a scrub-live oak forest region that is best developed on sandy soils within the summer fog zone. This chaparral is frequently dominated by forms of *Arctostaphylos tomentosa* plus one or more of four endemic manzanita taxa. *Adenostoma fasciculatum* is a common sub-dominant."

Holland (1986) characterizes central maritime chaparral as shrubland dominated by forms of *Arctostaphylos tomentosa* plus one or more other narrowly distributed manzanita. It is found on well-drained soils between Santa Cruz and Santa Barbara counties within the zone of summer coastal fog intrusion.

Sawyer and Keeler-Wolf (1995) describe central maritime chaparral under the woollyleaf manzanita series; "Many areas of chaparral on the [outer central coast] and [montane central coast] ranges have concentrations of local ceanothus and manzanita species. Such areas are often called maritime chaparral. In this series, forms of woollyleaf manzanita are a common component along with familiar members of chaparral and coastal scrub." In an email sent to Dr. Grey Hayes on December 12, 2004, Dr. John Sawyer writes that maritime chaparral was "unsatisfactorily" described as part of the woollyleaf manzanita (*Arctostaphylos tomentosa*) series in the first edition (1995) of the "Manual of California Vegetation". The characterization problems he lists are that while *Arctostaphylos tomentosa*, and its many forms, do dominate many stands of maritime chaparral, other stands are dominated by other shrub species; not all stands of the *A. tomentosa* are included in the range of maritime chaparral, and stands of other shrubland types are present along the coast.

The California Native Plant Society (2001) defines maritime chaparral as stands characterized by one or more *Arctostaphylos* or *Ceanothos* species, including narrow endemics that are considered rare and endangered. In a document prepared for the U.S. Fish and Wildlife Service on the distribution of maritime chaparral species in the Monterey Bay Area, Dr. Eric Van Dyke and Dr. Karen Holl write that "Central maritime chaparral is dominated by *Arctostaphylos* species, typically one or more varieties of *A. tomentosa* in combination with one or more local endemic *Arctostaphylos* species." Although on a landscape scale central maritime chaparral is typically dominated by *Arctostaphylos* species, at an individual site different percent covers of the various chaparral species will occur depending on the local fire and disturbance history (Van Dyke, personal communication, Friday, Dec. 1, 2006). For instance, following disturbance, the expectation is that herbaceous species such as poison oak will be favored. Under more stable successional conditions, sclerophyll shrubs such as manzanita and ceanothus species will thrive. In the absence of fire, fire-germinating species such as manzanita and ceanothus are expected to dominate. However, as

these shrubs senesce, they are unable to replace themselves and non-fire dependent species will succeed to dominance.

Van Dyke (Aug. 29, 2006) lists the following maritime chaparral habitat characteristics: 1. coastal climate characterized by summer drought moderated by frequent summer fog; 2. nutrient poor, somewhat to highly acidic, well-drained soils; 3. dense or closed canopy dominated by evergreen sclerophyllous shrubs (most often *Arctostaphylos* species; and, 4. the presence (not necessarily dominance) of one or more "indicator" species, which are indicative because their distribution is restricted to only those regions with the requisite climate and soil. He concludes: "If a chaparral stand includes *Arctostaphylos tomentosa* or any of the other 20+ maritime chaparral "indicator" manzanitas or other indicator species, it's maritime chaparral."

Juncosa (2006) recognizes the presence of such central maritime chaparral indicator species as shaggy-barked manzanita and Monterey ceanothus at the Foster site, but argues that the vegetation should not be characterized as central maritime chaparral because these maritime indicator species do not dominate the chaparral community in the vicinity of the proposed development. I discussed the issue of presence versus dominance with Dr. Todd-Keeler-Wolf, Senior Vegetation Ecologist with the California Department of Fish and Game (personal communication Wednesday, Nov. 29, 2006). Dr. Keeler-Wolf said in areas where the geographic location, soils, and climate are appropriate, the mere presence of indicator species is sufficient to identify a community as central maritime chaparral. He reiterated that one or more *Arctostaphylos* or *Ceanothus* indicator species characterizes central maritime chaparral shrublands. In the revised Manual of California Vegetation, soon to be published, the maritime chaparral definition will be updated and eleven different maritime chaparral alliances will be described. It is sometimes difficult to accurately identify central maritime chaparral because one of the main indicator groups, manzanitas, is comprised of obligate fire sprouting species. In the absence of fire (which has been suppressed along the California coast for the past 50 plus years), these species may be out-competed by other species. During this period, the density of plants may be low, but their seeds continue to exist in a dormant state. For this reason, "dominance" determinations, which do not consider the seed bank, are problematic because once a fire rolls through, the manzanita may sprout in large numbers. This understanding is echoed by Dr. Van Dyke in his email to Adrian Juncosa (Oct. 30, 2006) where he states that, "The presence (not dominance) of forms of *Arctostaphylos tomentosa*, as well as the presence of other species such as *Ceanothus cuneatus* var. *rigidus*, remains the best indicator we've got; it accurately encompasses the occurrences and species that we recognize as central and (most of) northern maritime chaparral (although not, it's important to note, southern maritime chaparral in San Diego county). But it's also important to reiterate that such a definition must be based on "presence" and "importance" of *A. tomentosa* across an occurrence, not dominance." Similarly, Odion and Tyler (2002) point out that in most cases, "...single or small groups of manzanitas or other maritime chaparral dependent species alone would indicate maritime chaparral because of the potential for the existence of a persistent soil seed bank."

The Foster Property occurs within the geographic and elevational range of central maritime chaparral, it is close to the coast and subject to summer fog, and supports two central maritime chaparral indicator species; shaggy-barked manzanita (*Arctostaphylos tomentosa* ssp. *tomentosa*) and Monterey ceanothus (*Ceanothus cuneatus* var. *rigidus*) along with a host of species commonly associated with maritime chaparral. Therefore, I conclude that the areas of scrub habitat on the Foster site are central maritime chaparral, a habitat type recognized as rare by the California Department of Fish and Game. The central maritime chaparral at the Foster site meets the definition of Environmentally Sensitive Habitat Area under the Coastal Act and the Big Sur LCP because it is rare, it performs the important ecosystem function of providing habitat for individual species, such as Monterey ceanothus, that are themselves rare, and it is easily disturbed by human activities, such as vegetation clearing.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



M E M O R A N D U M

FROM: Jonna D. Engel, Ph.D.
Ecologist

TO: Katie Morange
Coastal Analyst

SUBJECT: Foster Property Site Visit, March 16, 2007

DATE: May 7, 2007

On March 16, 2007, Adrian Juncosa, EcoSynthesis; Jay Auburn, Carver and Schicketanz Architects; and Mary Cain, Horan Lloyd Law Firm, representing their clients, the Foster's, met myself; Mike Vasey, San Francisco State University; Dr. Grey Hayes, Elkhorn Slough National Estuarine Research Reserve Coastal Training Program; Steve Monowitz, California Coastal Commission; and Katie Morange, California Coastal Commission at the Foster property for a site visit. Mr. Juncosa led the group on a tour of the Foster property focusing on plant communities in the proposed building site locations. Mr. Vasey provided maritime chaparral plant community knowledge and taxonomic expertise for identifying chaparral plant species.

The primary purpose of our visit was to examine the physical and biological characteristics of the Foster site chaparral community to determine if it met the definition of central maritime chaparral. In my December 5, 2006 "Proposed Foster Residence Chaparral Plant Community Determination" memo, I discussed the attributes of central maritime chaparral in detail. I reviewed the ongoing discussion taking place over the last decade where the issue of presence versus dominance of maritime chaparral indicator species has been a central concern. I concluded, after literature review and discussions with botanical experts, that presence of indicator species within a chaparral community with the concomitant physical attributes of geographic location, climate, and soils, is a valid diagnostic for making a central maritime chaparral community determination^{1, 2, 3, 4, 5, 6, 7}.

¹ Griffin, JR. 1978. Maritime chaparral and endemic shrubs of the Monterey Bay region, California. Madrono, Vol. 25 (2): 65-112.

² Holland, R.F. 1986. Preliminary description of the terrestrial natural communities of California. California Department of Fish and Game.

³ Sawyer, J. & T. Keeler-Wolf. 1995. A manual of California vegetation. California Native Plant Society.

⁴ Hayes, G. Editor. 2003. Conservation and ecology of California's maritime chaparral: workshop follow-up questions and answers. Coastal Training Program; Elkhorn Slough National Estuarine Research Reserve.

The Foster property is a 78-acre parcel located in Section 8, T18S R1E on Cushing Mountain, which is the ridge dividing Rocky Creek from Palo Colorado Creek in Big Sur, along the central California coast. The property is near the top of the ridge; the elevation at the site ranges from 800 to approximately 1400 feet; and is oriented west/south-west facing the Pacific Ocean.

The Foster site has all the physical attributes required for central maritime chaparral. The site occurs within the geographic and elevational range of central maritime chaparral and is characterized by a maritime climate due to its location and orientation. The day we visited the Foster property the coast was enveloped in fog but it did not extend up to the Foster property. And while fog may only sit on the property a fraction of the time that it blankets the coast, the property is influenced by a maritime climatic regime. Evidence of this includes the presence of redwoods which do not grow outside fog zones and the presence of three central maritime chaparral indicator species discussed below. Finally, the soil on the property is principally a well-drained granitic soil that is acidic and sandy in character.

In several biological reports prepared for the property, the shaggy-barked manzanita (*Arctostaphylos tomentosa* ssp. *tomentosa*), a central coast endemic and central maritime chaparral indicator species, was identified. However, we did not observe this species on our site visit. Rather, the majority of manzanitas identified on the site were *Arctostaphylos glandulosa* ssp. *glandulosa* and there were also occasional *A. glandulosa* ssp. *cushingiana*. Mr. Vasey, who is a manzanita specialist, observed that the distribution of leaf stomata⁸ (a diagnostic character for identifying manzanita species) was "heterofacial"^{9,10}, which is not typical of *A. glandulosa*. Ecologically, manzanita species exhibiting bifacial/heterofacial leaf stomata, are restricted to the cooler, mild climate of the coastal fog belt¹¹. The heterofacial condition in *A. glandulosa* tends to be associated with coastal populations, as also observed for *A. glandulosa* ssp. *crassifolia* in San Diego.

While we did not find the shaggy-barked manzanita during our site visit, we did observe several other central maritime chaparral indicator species. Monterey Ceanothus

⁵ Odion, D. and C. Tyler. 2002. Are long fire-free periods needed to maintain the endangered, fire-recruiting shrub *Arctostaphylos morroensis* (Ericaceae)? Conservation Ecology, 6 (2): 4. [online] URL: <http://www.consecol.org/vol6/iss2/art4/>

⁶ Dr. Todd Keeler-Wolf, personal communication, Wednesday, Nov. 29, 2006.

⁷ Dr. Eric Van Dyke, personal communication, Friday, Dec. 1, 2006.

⁸ Stomata are pores in the leaf surface that can open or close to allow the passage of air and water.

⁹ "Heterofacial" is a condition between bifacial (stomata on underside of leaf) and isofacial (stomata on both sides of leaf). In heterofacial plants, there are more stomata on the lower leaf surface than on the upper leaf surface.

¹⁰ Boykin, L.M., M.C. Vasey, V.T. Parker, & R. Patterson. 2005. Two lineages of *Arctostaphylos* (Ericaceae) identified using the internal transcribed spacer (TS) region of the nuclear genome. Madrono, Vol. 52 (3) 139-147.

¹¹ Wells. P.V. 1992. Subgenera and sections of *Arctostaphylos*. The Four Seasons, Vol. 9: 64-69.

(*Ceanothus cuneatus* var. *rigidus*), a rare endemic plant, is one of the central maritime chaparral shrubs on the property¹². The California Native Plant Society places Monterey Ceanothus in category "4.2," which means that it has a limited distribution and is fairly endangered in California. Monterey Ceanothus does not dominate the chaparral community on the Foster property; however, we noted on the order of 10 to 15 individuals. Had we performed a quantitative survey, we probably would have identified significantly more individuals. Monterey Ceanothus is a robust fire follower and as time between fires increases, the successional pattern is for manzanita and chamise, both in high densities on the Foster property, to increase in number while ceanothus decreases. We noted fire evidence on the root burls of several manzanita near the proposed main house site, however, no fire history for the site has been documented. A long time has likely passed between the present and the most recent fire.

In addition, the chaparral community on the property also supports two other central maritime chaparral indicator species; Golden Chinquapin (*Chrysolepis chrysophylla*) and Huckleberry (*Vaccinium ovatum*). Golden Chinquapin can take on shrub-like or tree-like dimensions reaching heights of 10 to 130 feet. It occurs on coastal slopes and ridges of the Pacific Coast Ranges from Washington to San Luis Obispo¹³. Golden Chinquapin prefers sandy and acidic soils and requires well-drained soils. It grows at lower elevations, from sea level to 1,500 m, rarely 2,000 m¹⁴. California Huckleberry occurs along the Pacific Coast from British Columbia to central California. It is a shrub that can reach 3 to 15 feet in height. It commonly forms dense thickets on open ridges in the fog belt of California¹⁵. Huckleberries (*Vaccinium* spp.) require well-drained acidic soil conditions and thrive where the pH ranges from 4.3 to 5.2¹⁶. Mr. Vasey thinks that the California Huckleberry and Monterey Ceanothus on the Foster Property may represent individuals at the southernmost edge of their ranges.

The Foster property occurs within the geographic and elevational range of central maritime chaparral, it is adjacent to the coast and influenced by a maritime climatic regime, and it has well-drained, sandy, acidic soils. In addition, the chaparral community supports at least three central maritime chaparral indicator species; Monterey Ceanothus (*Ceanothus cuneatus* var. *rigidus*), Golden Chinquapin (*Chrysolepis chrysophylla*), and Huckleberry (*Vaccinium ovatum*) along with a host of species commonly associated with central maritime chaparral. Therefore, I conclude,

¹² California Native Plant Society (CNPS). 2007. Inventory of Rare and Endangered Plants (online edition, v7-07a). California Native Plant Society. Sacramento, CA. Accessed on May 1, 2007 from <http://cnps.web.aplus.net/cgi-bin/inv/inventory.cgi>.

¹³ Sawyer, John O.; Thornburgh, Dale A.; Griffin, James R. 1977. Mixed evergreen forest. In: Barbour, Michael G.; Major, Jack, eds. Terrestrial vegetation of California. New York: John Wiley and Sons: 359-381.

¹⁴ Keeler-Wolf, Todd. 1988. The role of *Chrysolepis chrysophylla* (Fagaceae) in the Pseudotsuga hardwood forest of the Klamath Mountains of California. Madrono, 35(4): 285-308.

¹⁵ U.S. Department of Agriculture, Forest Service. 1937. Range plant handbook. Washington, DC. 532 p.

¹⁶ Korcak, Ronald F. 1988. Nutrition of blueberry and other calcifuges. Horticultural Reviews, Vol. 10: 183-227.

as I did in my December 5, 2006 memo, that the areas of scrub habitat on the Foster site are central maritime chaparral, a habitat type listed as rare in the California Department of Fish and Game's Natural Diversity Database¹⁷. The central maritime chaparral at the Foster site meets the definition of Environmentally Sensitive Habitat Area under the Coastal Act and the Big Sur LCP because it is rare, it performs the important ecosystem function of providing habitat for individual species, such as Monterey Ceanothus, that are themselves rare, and it is easily disturbed by human activities, such as vegetation clearing.

¹⁷ California Natural Diversity Database. 2007. California Department of Fish and Game.
<http://www.dfg.ca.gov/bdb/html/cnddb.html>.

NOV 13 2007

November 9, 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**VIA FEDERAL EXPRESS**

Chairman Kruer and Honorable Commissioners
 California Coastal Commission
 North Central Coast District
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Agenda Item F11a

Re: Appeal No. A-3-MCO-06-018 (Steven and Gillian Foster Property, Lot 7, Rocky Creek Ranch, Big Sur, Monterey County)

Dear Chairman Kruer and Honorable Commissioners:

We are writing on behalf of our clients, Mr. and Mrs. Steven Foster (the "Fosters"), in response to the November 1, 2007 Staff Report (the "Staff Report"), for the appeal of the above-referenced Coastal Development Permit (the "CDP") for an off-grid, solar-powered single family residence with coastal views on a 78-acre parcel in an existing subdivision known as Rocky Creek Ranch approximately 12 miles south of Carmel and 2 ½ miles inland and eastward of Highway One in Monterey County (the "County"). The Fosters appreciate the hard work of the Coastal Commission Staff in analyzing the issues involved in the appeal.

Since the Coastal Commission (the "Commission") appealed the County's approval, the Fosters have worked with the Staff to provide the Commission with additional information and analysis and to propose project modifications in an effort to address the issues raised in the appeal and by the Staff. As part of the Fosters attempt to try to reach a resolution with Staff that addressed the issues raised in this Appeal and by Staff, the Foster also proposed as part of the negotiations a "Revised Project," despite their belief that that the County-approved project (the "Approved Project") is consistent with LCP policies and should be adopted as approved. The Revised Project eliminated the approved Steven's Studio and shed, and relocated the garage outside the chaparral. Unfortunately, the discussions did not result in a compromise. This is evidenced by the fact that Staff failed to even mention the Revised Project in the Staff Report. In addition, despite the efforts at resolution, the Staff did not, in the Staff Report, alter their recommendations that the chaparral on the property be designated ESHA and an unprecedented 100-foot buffer be imposed. The Fosters' continue to maintain that the Approved Project is consistent with LCP policies, is environmentally superior to the Staff's recommendation, and should be adopted as approved.

These materials have been provided to the Coastal Commission Staff

* STAFF NOTE : According to the Applicant, this response to the staff report and all exhibits were submitted to each Commissioner. Exhibits are available for review in the Central Coast District office.

5
CCG Exhibit
 (page 1 of 5 pages)

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The Staff Report improperly recommends both that the chaparral on the property be designated central maritime chaparral ("CMC") and therefore ESHA and that an unprecedented 100-foot buffer be imposed – neither of which are supported by the LCP, the published and currently applicable adopted scientific authority, or any scientific consensus. Staff's recommendations would limit any residential development to a 0.4 acre development envelope, comprising ½% of the Fosters' 78 acre parcel, which would accommodate only a fragment of the Foster's proposed residence; would substantially and unreasonably impair the value and use of the Fosters' property; and would interfere with their reasonable investment-based expectations based upon a Monterey County 1992 lot line adjustment that established the development envelope on which the Fosters' propose to build their home and the property's zoning that allows 10% site coverage. The effect of Staff's recommendations is an effective denial of the project and would therefore be a multi-million dollar taking.

The Fosters are therefore requesting certain significant modifications to Staff's recommendation, as set forth in the attached, more detailed Response to the Staff Report and Requested Modifications to the Proposed Conditions.

1. The Fosters request that the Commission not adopt the Staff's recommendation to designate the chaparral on the property as ESHA under the Monterey County (Big Sur area) Local Coastal Program (the "LCP") based on the purported presence of CMC.
2. The Fosters request that the Commission: (i) approve the Approved Project in the locations approved by the County; (ii) not adopt the Staff's recommendation to impose an unprecedented 100-foot buffer between development and chaparral, as the proposed buffer is not supported by substantive evidence, conflicts with abundant permit precedent, and would preclude all reasonable development of the site, resulting in a taking; and (iii) find that the Approved Project, including negligible fuel modification within small portions of chaparral, is consistent with the LCP's ESHA and Hazards policies, which historically have been interpreted to permit fuel modification within chaparral.
3. The Fosters request that the Commission not adopt Staff's recommendation and find that the Approved Project in the locations approved by the County is consistent with the LCP's viewshed policies since the Approved Project is not within the critical viewshed or visible from public viewpoints based upon uncontroverted viewshed analyses provided to the Commission.

The Fosters are seeking approval for an environmentally sensitive home for their family with coastal views. The Approved Project would be entirely powered by off-grid solar energy, and the Fosters' architect specializes in all green specifications, including Forest Stewardship Council certified lumber and low volatile organic compound paints, and would apply LEED principals to the project. The Approved Project includes a 3,975 square foot home with a detached garage, two detached art studios (approximately 1,200 square feet each) for Steven and Gillian, an 850 square foot caretaker unit, a 425 square foot guesthouse, and a detached barn. All development would be clustered almost entirely in the northern portion of the site on areas of

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long-standing (pre-Coastal Act) grading and disturbance comprising only 0.27% (approximately ¼ of one acre) of the property. The structures would be located in the most environmentally sensitive location on the property—development would be sensitively sited outside of redwood stands, minimize tree removal, require minimal grading and landform alteration, and require the removal of only 1,171 square feet of manzanita chaparral (that does not qualify as CMC under any generally accepted definition).

The Staff Report fails to consider the abundant analysis provided by the Fosters' consulting botanist, Dr. Adrian Juncosa, in any part of its discussion regarding CMC and the LCP's ESHA policies, or the Fosters' proposed Resource Protection Plan that would protect and enhance the chaparral on-site and serve as the functional equivalent of, and therefore avoid, the need for a habitat buffer. The Staff Report also ignores evidence that the recommended Allowable Development Envelope requires relocation of much of the Approved Project from the most environmentally sensitive location for development to locations that require significant grading and other landform alternation, significant tree removal (including redwoods contrary to LCP ESHA policies), and placement of structures within the private viewshed, also in violation of the LCP.

The Fosters therefore disagree with the Staff Report recommendations for the following reasons:

1. The Chaparral On-Site is Not ESHA Because it Does Not Qualify as CMC ESHA Under Any Generally Accepted Definition. The Staff Report improperly recommends that the chaparral on the Fosters' site be designated central maritime chaparral and therefore ESHA. The published vegetation classification authorities all require *Arctostaphylos tomentosa* to be either a dominant or at least an important species in the vegetation in order for chaparral to be designated CMC. The Foster site does not contain any *Arctostaphylos tomentosa*. As a result, according to the current published authority, the chaparral is not maritime and not ESHA. The type of chaparral vegetation found on the site is clearly defined as a non-maritime type in the current State vegetation classification system. In fact, not one plant or species on-site is listed as rare by the relevant classification authority. Instead of analyzing the chaparral on-site according to published authority, however, the Staff improperly relies upon unpublished workshop materials, internet websites, and personal communications between Staff and biologists to unilaterally redefine what constitutes CMC to include the chaparral on the Fosters' site. The resulting definition is controverted by actual plant distribution records available through the University of California at Berkeley and, if applied, would make CMC so abundant in the Coast Ranges that it would no longer merit protection as ESHA. Such a result would preclude the Commission from protecting chaparral community types that are in fact rare under broadly accepted classification principles. In addition, the recharacterization of currently non-protected chaparral as ESHA would also make completion of the California Coastal Trail in the Big Sur area impossible, an unacceptable consequence that would drastically interfere with State-mandated obligations to provide a system of public accessways to, and along, the State's coastline.

2. The Project is Consistent with the LCP's ESHA and Hazard Policies. The LCP requires that development not significantly disrupt ESHA habitat values. The Approved

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Project requires de minimis removal of chaparral and would involve limited fuel modification within chaparral, and would include a Resource Protection Plan that would both protect the existing chaparral on-site and restore additional chaparral to the site. The Approved Project, therefore, would not significantly impact habitat values and would be consistent with past permit approvals under the LCP, including one reviewed by Staff after this appeal, where substantial disturbance of CMC and fuel modification within ESHA was found to be consistent with the LCP's ESHA policies.

3. The 100-Foot Setback is Unwarranted and Unprecedented Under the LCP.
The LCP does not require any buffer from CMC, and the Staff Report provides no scientific support for Staff's recommended buffer on the property. Numerous prior permits for residential development adjacent to CMC on other properties under the LCP required no ESHA buffer. To the contrary, evidence has been submitted demonstrating that the non-protected chaparral on-site is hardy and that, unlike some other plant communities, a physical buffer is not necessary to protect it. While the Fosters maintain that the chaparral on their property is not CMC, and therefore is not ESHA, they have proposed a Resource Protection Plan that would protect, restore, and enhance non-protected chaparral on the property.

4. The Proposed Residence is Consistent with the LCP's Viewshed Policies.
Staff improperly recommends that all development be constrained to a portion of the site that will require more landform alteration, be visible to neighbors in violation of LCP viewshed policies, and not accommodate all proposed development, based on the hypothetical possibility that structures, which are not visible from public vantage points under existing conditions, might become visible at some point in the future. All of the County-approved development, however, is either presumptively outside of the "critical viewshed," as defined by the LCP, from public or private vantage points, or has been proven to be outside of the critical viewshed through viewshed studies that provide overwhelming evidence to support the finding that all proposed structures are not visible under existing conditions either during the day or night. The County imposed conditions requiring ongoing maintenance of viewshed protection and demolition of any structures that become visible are sufficient would ensure compliance with LCP viewshed policies.

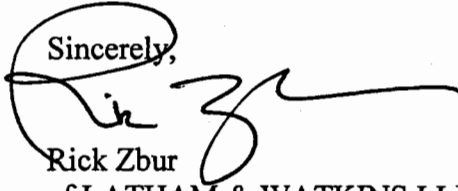
5. Adopting the Staff's Recommendations Would Result in a Multi-Million Dollar Taking. The Fosters purchased the property in reliance on a County approved building envelope (and regulations that allow building site coverage of just under 7.8 acres) and an EIR, which was reviewed by Coastal Commission Staff and concluded there was no CMC on the property. The certified FEIR specifically recommends building on the previously disturbed chaparral locations of the Foster site where the original project was proposed, finding these locations to be the environmentally superior alternative. The Approved Project is the most environmentally sensitive alternative for development on the property, siting most of the development within areas of pre-Coastal Act disturbance and locating the main residence in the building envelope specifically analyzed by Monterey County and reviewed by Coastal Commission Staff in 1992. The Staff's recommended buffer and prohibition on fuel modifications within the chaparral, however, would relocate much of the development to previously undisturbed locations on the site, preclude development in any portion of the property with an ocean view, and significantly diminish the buildable area on the property to less than 1%

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of the site, and remove the house from the building envelope established for the property in 1992. It was reasonable for the Fosters to expect when they acquired the property that they could build their proposed home and ancillary structures within the building envelope established for the property, for which they paid a premium. Staff's recommendations substantially and unreasonably impairs the value and use of the Fosters' property, interferes with their reasonable investment-backed expectations, and constitutes a multi-million dollar taking.

Based on the foregoing and our more detailed Response to the Staff Report and Requested Modifications to the Proposed Conditions, attached hereto, the Fosters respectfully request that the Commission approve the CDP at its meeting on November 16. Please feel free to contact me at (213) 485-1234 if you have any questions regarding this matter.

Sincerely,


Rick Zbur

of LATHAM & WATKINS LLP

Attachments:

Requested Modifications to the Proposed Conditions
Response to Staff Report

cc: Chair Kruer and Honorable Commissioners
Mr. Dan Carl
Ms. Katie Morange
Mr. Steven Foster
Mark Blum, Esq.

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NOV 13 2007

**FORM FOR DISCLOSURE OF
EX PARTE COMMUNICATIONS**

NOV 14 2007

F11b

CALIFORNIA
COASTAL COMMISSIONCALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Name or description of project, LPC, etc.:

A-3-MRB-06-064 (Colmer-Morro Bay)

Date and time of receipt of communication:

11/6/07 (5:00 PM)

Location of communication:

Santa Barbara

Type of communication (letter, facsimile, etc.):

Personal Meeting

Person(s) initiating communication:

David B. Neish

Person(s) receiving communication:

Dan Secord

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Representative of the applicant presented the past history of communications with CCC staff since January 2007. Discussion included setback recommendation by CCC staff of 100+ feet from streambed and 100+ feet from State Park boundary line that would basically render the proposed 17 lot subdivision economically unviable. It was indicated that the applicant was going to investigate a redesign that might allow for the opportunity for CCC staff to look at other options for the proposed residential development. This would likely create the need for a postponement for the November hearing.

11-12-07

Date


 Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

F116

COLMER CONSTRUCTION

5000 Parkway Calabasas • Suite 110 • Calabasas • California 91302 • (818) 222-5666 • FAX (818) 222-5668 • EMAIL COLMER32@sbcglobal.net

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NOV 06 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

November 6, 2007

Mr. Mike Watson
Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

RE: Application A-3-MRB-06-064
Colmer Morro Bay

Dear Mr. Watson:

We are requesting a postponement of the De Novo Hearing in the event Substantial Issue is found on the appeal item number F11ab scheduled for November 16, 2007. We request that the De Novo Hearing be held as soon as possible, preferably at the scheduled December Coastal Commission Hearing. Thank you.

Sincerely,



Wayne Colmer

Enclosure

VIA FACSIMILE (831) 427-4877
VIA MAIL

STATE OF CALIFORNIA - THE RESOURCES AGENCY

F116
ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-1863

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Request for Postponement

NOV 06 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREARe: Application No. A-3-MRB-06-064

I hereby request a postponement of the referenced application from its scheduled Commission public hearing date. I do so as a matter of right pursuant to Public Resource Code 13073(a), and acknowledge that I may be granted only one right to postponement. I also agree to waive any applicable time limits for Commission action pursuant to Public Resources Code 13073(c) on the above-referenced application. I understand I must provide another set of stamped, addressed envelopes to meet public notice requirement consistency with CCR 14 Section 13054. These must be received in the District Office by _____. I request that the referenced application be scheduled:

- ☒ for consideration at the next possible Southern California Commission meeting.
- ☒ for consideration at the next possible Northern California Commission meeting.

(I understand that the application may need to be scheduled without regard to the Southern/Northern California preference, for reasons beyond the control of the Commission.)

- () for consideration after staff and I have had additional time to discuss the project.
- () Other (explain)

11/6/07
DateWayne Colman
Signature of applicant or authorized agent

F11b

California Coastal Commission

Central District Office

725 Front St. Suite 300

Santa Cruz, CA 95060

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NOV 07 2007

CALIFORNIA
COASTAL COMMISSION
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Attention:

Meg Caldwell


Mary K. Shallenberger

Attached you will find the letter we wrote earlier in reference to appeal #A-MRB-06-064 regarding the Colmer project in Morro Bay.

We would like to re-emphasize our objection to this project. Not only for the afore mentioned reasons but also in light of the fires in southern California we feel it is extremely important not to allow this type of building in this area. The pine trees left at the top of this hill provide great fuel for another fire.

Once again, please deny this project and find for the appellant.

Sincerely,


Garry W.E. Johnson

1165 Morro Ave.

Morro Bay, CA 93442

F11b

California Coastal Commission

Central District Office

725 Front St. Suite 300

Santa Cruz, CA 95060

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NOV 07 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Sir or Madam,

As a citizen of Morro Bay CA., I am writing in hopes that you will uphold appeal # A-3-MRB-06-064. This is a project proposed by a developer Wayne Colmer to cut down many native pine trees, most of them healthy, and build 17 homes on the side of a hill on South Bay Blvd. in Morro Bay. There is also a lovely wetland and sometimes creek that runs along the north edge of the property. He proposes to make this a common area and community garden for the people buying houses in his "tract".

It is my personal opinion that this project is not good for the environment or in keeping with the nature of our community.

Larry Johnson
1165 MORRO AVE
MORRO BAY, CA
93442
805-772-3738

F116

Chuck Meissner
929 Pecho Street
Morro Bay, CA 93442-2628
(805) 772-7105
chuck.meissner@sbcglobal.net

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NOV 05 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

November 1, 2007

California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

Attention: Commissioner Meg Caldwell, Commissioner Mary K. Schallenberger

Regarding: Appeal A-3-MRB-06-064

Dear Honorable Commissioners:

In response to your notice of the new appeal re: permit A-3-MRB-06-064, I am sending a copy of my letter of August 1, 2007 in support of the appellants. I am pleased to have an opportunity to do this because, considering the recent disastrous fires in Southern California, I want to emphasize that the proposed site for 17 residences on Black Hill needs to be considered as perilous as most of the fire-prone areas recently burned. On the South side of the hill there is a golf course, a large camping ground and a marina and beyond that the tidal estuary. These are places of much human activity, including campfires. Suddenly needed egress from this property and from the abutting mobile home park could result in tragic loss of life.

This is not a good time or place to appease a builder by allowing this kind of development to proceed at the risk of adding to the myriad of like mistakes that are still smoldering in the Southland. This may be the right time to add this property to the state park.

Thank you,

A handwritten signature in cursive script, appearing to read "Chuck Meissner", followed by a long horizontal flourish line.

F116

Chuck Meissner
929 Pecho Street
Morro Bay, CA 93442-2628
(805) 772-7105
chuck.meissner@sbcglobal.net

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NOV 05 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

August 1, 2007

California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

Regarding: Appeal A-3-MRB-06-064

Gentlepersons:

"It was the people of California who voted to maximize coastal access and control shoreline development when they overwhelmingly approved proposition 20 in 1972, creating the Coastal Commission."* If one divides the population of California by the miles of state coastline I think the answer is over 33,000 people per mile of coastal access. This is a terrible responsibility for all of us who are stewards of the peoples' land. This present appeal to the commission is to stop an exploitation of one of Morro Bay's treasured corners.

The parcel in question is at the eastern corner of the city at the intersection of a main route into town and the main route from Highway One to State Park and Los Osos. These are country roads. One of these is on a hill and both these roads are somewhat winding and hazardous, especially at their crossing, and would require considerable modification for tract access near the intersection. This parcel abuts an important mobile home park. It also abuts the lower edge of Black Hill, which is part of our state park, a forested area with several remote but popular walking trails. A wildfire in this park could quickly wipe out this development. But the most important location consideration is the runoff stream on the lower end. Three streams merge and flow down through the property under the road to their confluence with Chorro Creek, a major stream from the Cal Poly area. Chorro Creek in this area, and below to the estuary, is choked with willows and is a flood zone. The property is surely a "wetland" and is a habitat for native flora and fauna.

It is our opinion that there is no reason for this development but to continue to mine the gold of coastal real estate. John Sutter could not stop the '49ers from ruining his land, but we are asking that you to help us protect our coast. Thank you.

Charles and Floretta Meissner,
Morro Bay

**Blocking the Way to the Beach*, Los Angeles Times, September 3, 1995.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877

F11c**Staff Report Addendum**

Prepared November 14, 2007 (for November 16, 2007 hearing)

To: Commissioners and Interested Parties

From: Charles Lester, District Director
Dan Carl, Interim District Manager *DGM*
Jonathan Bishop, Coastal Program Analyst

Subject: STAFF REPORT ADDENDUM for F11c
Appeal Number A-3-GRB-07-051 (Pacific Coast Hotel)

Following release of the staff report and recommendation for this item, it was brought to the attention of Commission staff that some printed copies of the staff report were missing Page 9. The unintentional omission of Page 9 in some copies appears to be the result of a printing/reproduction error. The missing Page 9 of the staff report is attached.

<i>Use</i>	<i>Average Daily</i>	<i>Peak Flow</i>
<i>Recreation-oriented</i>	<i>10 percent</i>	<i>12 percent</i>
<i>General Commercial</i>	<i>2 percent</i>	<i>1 percent</i>
<i>Residential</i>	<i>83 percent</i>	<i>83 percent</i>
<i>Industrial</i>	<i>5 percent</i>	<i>4 percent</i>

B. Analysis of Consistency with Cited Policies

As detailed below, the appeal raises a substantial issue with respect to the project's conformance with the certified LCP's policies and ordinances related to all of the issue areas cited by the Appellants.

1. Allowable Uses/Public Access/Visitor-Serving Recreation

The proposed condominium hotel project is located in the LCP designated C-P-C Zoning District and Beach Neighborhood. The LCP intends that these areas maintain and enhance public access to and along the shoreline and provide for visitor-serving needs. The LCP zoning regulations description of the C-P-C zoning district states:

The C-P-C District is intended to provide for the visitor-serving needs in a manner that is sensitive to the environmental, visual and archaeological resources within and adjacent to the boundaries of the District by sensitively siting and designing structures.

The LCP description of the Beach Neighborhood designation states:

The focus is on visitor-services and recreation uses, such as the golf course, state beach, and multi-modal transportation facility.

LCP Zoning Regulations Table 1 (Uses Permitted Within Commercial Districts) provides additional specificity as to the types of uses permitted within each zoning district. Within each commercial district, uses are listed as "P" – Permitted; "UP" – Permitted subject to obtaining approval of a Use Permit; "AUP" – Permitted subject to obtaining approval of an Administrative Use Permit; "TUP" – Permitted subject to obtaining approval of a Temporary Use Permit; or, "NP" – Not Permitted.

The proposal for a condominium hotel raises important issues regarding the types of uses allowed in the C-P-C zoning district and the Beach Neighborhood designation. Under LCP Table 1 mixed-use developments that combine dwelling units with commercial uses are not permitted in the C-P-C Zoning District (see Exhibit F, Table 1 – Uses Permitted Within Commercial Districts). Although the visitor-serving elements of the project are considered a high priority for the underlying zoning district, the inclusion of residential dwelling units (privately owned condominiums) is inconsistent with the certified LCP. Allowing the private ownership of condominium units (quasi-residential dwellings) also undermines the intent of the underlying zoning district and the Beach Neighborhood designation. In sum, the proposed condominium hotel is not an allowed or appropriate use within the LCP's C-P-C Zoning District and designated Beach Neighborhood area.



RECEIVED

NOV 01 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREAFORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS**RECEIVED**
OCT 29 2007
CALIFORNIA
COASTAL COMMISSION

Date and time of communication:

10-29-07 11:00 AM

Location of communication:

(If communication was sent by mail or
facsimile, indicate the means of transmission.)S.L.O. CO. GOV. CENTER

Identity of person(s) initiating communication:

RON PERKINS IGIT. INC.

Identity of person(s) receiving communication:

K.H. ACHAOJIAN

Name or description of project:

PACIFIC COAST HOTEL

Description of content of communication:

(If communication included written material, attach a copy of the complete text of the written material.)

MR. PERKINS WANTED TO MEET ME AND GIVE ME
SOME BACKGROUND OF HIS PROJECT IN THE CITY
OF GROVER BEACHWE DID NOT DISCUSS ANY DETAILS OF HIS PROJECT SINCE
IT WAS RECENTLY APPEALED TO THE COASTAL COMMISSION BY
TWO COMMISSIONERS. HE SHARED HIS LETTER ADDRESSED TO COM. KREVER & VARGAS
WE WILL WAIT FOR STAFF REPORT AND MEET AGAIN DATE UNCERTAIN10-29-07

Date


Signature of Commissioner

If communication occurred seven (7) or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven (7) days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven (7) days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.



City of Grover Beach

F11c

Mayor Stephen C. Lieberman Mayor Pro Tem John P. Shoals
Council Member Chuck Ashton, Council Member Karen Bright, Council Member Bill Nicolls

Bob Perrault
City Manager

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NOV 13 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

November 7, 2007

California Coastal Commission
Central Coast District Office
Attn: Jonathan Bishop
725 Front Street, Suite 300
Santa Cruz, CA 95060

RE: Coastal Commission Appeal, Pacific Coast Hotel, 105 West Grand Avenue
Permit Number: A-3-GRB-07-051
Agenda Item No. F11c, November 16, 2007 Commission Meeting

Dear Mr. Bishop:

The City of Grover Beach has received a copy of the Appeal Staff Report which will be considered by the Coastal Commission at the November 16, 2007 meeting. In the report dated October 25, 2007, five (5) issues were identified under Section B, Analysis of Consistency with Cited Policies. The following discussion focuses on the five issue areas, with the intent of providing supplemental information and clarification, as appropriate.

Issue 1: Allowable Uses/Public Access/Visitor-Serving Recreation

The staff report states that "under Local Coastal Program (LCP) Table 1, mixed use developments that combine dwelling units with commercial uses are not permitted in the C-P-C Zoning District". The proposed project is not a mixed-use development that includes residential units. Instead, this is a development that includes hotel units and commercial/retail spaces proposed in a condominium format. For clarification purposes, the following definitions from the City Zoning regulations are provided:

Dwelling: a building or portion thereof designed exclusively for residential occupancy, including one-family, two-family, three family dwellings or apartments, multiple-family dwellings, but not including hotels, motels or boarding houses.

Hotel: A single building or group of detached or semi-detached buildings containing guest rooms or apartments, which group is designed and used primarily for the accommodation of transient travelers.

154 South Eighth Street ♦ Grover Beach, California 93433 ♦ FAX (805) 489-9657 ♦ www.grover.org

Mixed Use Development: The development of a lot or building with two or more different land uses, such as residential, commercial, industrial, or public.

As indicated above, residential units are specifically designed for permanent occupancy and are not to be used for transient occupancy. Hotels are an allowed use in the C-P-C Zoning District, without any specification as to whether they are under one ownership or may be in multiple ownerships (condominiums). Thus the proposed uses are consistent with the provisions of the Local LCP.

Issue 2: Environmentally Sensitive Habitat Areas (ESHA)

As noted in the staff report, the project involves development in close proximity to a sensitive habitat area. The project site is in close proximity to Meadow Creek, even though the project site is not contiguous to the creek. The staff report further states that it appears that the City's approval lacks adequate measures to avoid impacts and significant disruptions to the resources as required by the City's LCP.

The staff report to the Coastal Commissions fails to state that the City conducted an Initial Study in accordance with CEQA (provided as Attachment 17 to City staff report). This included an analysis of the biological aspects of the project, including a biology analysis report. This document was submitted to the Coastal Commission and the State Department of Fish and Game. The City did not receive any comments from either the Coastal Commission or the State Department of Fish and Game regarding the adequacy of this analysis. In addition, and as a supplement to the project review analysis, a biological report (Attachment 23 to City staff report) was prepared in February, 2007. This document provided additional review of the project and its relationship to Meadow Creek. In addition, a project restoration plan (Attachment 28 to City staff report) was considered as part of the final City project review. These documents provided adequate analysis of the project's minimal impacts upon biological resources both in respect to the project site and Meadow Creek. It is not known why these documents, transmitted to the Coastal Commission as part of the Notice of Final Action, are not included in the staff report to the Coastal Commission.

Issue 3: Marine and Coastal Water Quality

The project plans provide that the development will have an underground drainage facility that will accommodate all on-site drainage flows. The drainage facility is shown and defined on project plan sheets SDP-5 and SDP-5.1. These plans were reviewed by the City Engineer in order to be consistent with City requirements. In addition, conditions PWCE-3 and PWCE-4, provided in City Council Resolution No. 07-86 (CCC Exhibit B to Commission staff report) require the preparation of final drainage designs for review by the City Engineer. These conditions require that the project meet specific requirements, including Low Impact Development (LID) techniques to mitigate storm water runoff pollution as required by the City and the Regional Water Quality Control Board.

Issue 4: Scenic Resources and Community Character

Scenic resources and community character of this project was the subject of extensive review for over a year. This also included review and comment from the Coastal Commission staff. This resulted in extensive review and modifications to the project design and architectural treatments. Every effort was made to require project compliance with existing developments

treatments. Every effort was made to require project compliance with existing developments and proposed developments envisioned within the C-P-C Zoning District. Consideration of earlier design ideas for the yet to be designed City/State Parks Lodge and Conference Center, which is proposed to be located in an area west of Meadow Creek and the Pacific Coast Hotel was also taken into account.

The Commission staff report states that the project will have a significant adverse impact on public views to and along the shoreline, and will substantially negatively alter the visual character of the surrounding beach community. Again, this issue was the subject of extensive review during the past year. While it is recognized that this project will alter the appearance of the existing project site, and may have some impacts upon area views, it is questioned as to whether this would be significant in terms of existing views of the shoreline from Highway 1. It is noted in the City's LCP that views for travelers along Highway 1 are limited by existing development of the adjacent recreational vehicle and Mobile Home Park, as well as existing vegetation within the park and along Meadow Creek. The only true view of the shoreline is from within the existing West Grand Avenue right-of-way corridor. It is important to note that the tower feature included within the hotel project will be accessible to the public and will provide significant views of the shoreline. In addition, a view analysis presentation was conducted for both the City Planning Commission and the City Council during their consideration of this project, and no significant issues as to views were presented.

A second issue was that of the density of hotel units. The C-P-C Zoning District, for this project site, allows up to 20 hotel units per acre. This Zoning District and the development standards set forth in the LCP do not specify whether the measurement is to be calculated using gross or net acreage. As noted in a City memorandum provided to the Coastal Commission staff on October 16, 2007, almost all the City zoning districts provide that density is to be measured utilizing gross acreage, which by standard definition, includes half of adjoining rights-of-way. Utilizing a half portion of the adjoining West Grand Avenue and State Highway 1 rights-of-way allows for a gross acreage of 1 acre, which would allow 20 hotel units. It is important to note that the gross acreage is only utilized for density purposes, with all remaining development standards applied to the actual available square footage of project site.

Issue 5: Public Services

The staff report to the Coastal Commission states that development does not include information on the City's public service capacities, nor does it contain any analysis of the project's demand on public services. The CEQA Initial Study, which was utilized for the preparation of the Mitigated Negative Declaration, includes a public services analysis of the City public services and the demands that this project will impose on the City. The Initial Study analysis was submitted to both the City Planning Commission and City Council as part of their consideration of the project application. In addition, a draft and final copy of the Mitigated Negative Declaration/Initial Study were transmitted to the Coastal Commission. The Mitigated Negative Declaration/Initial Study was not included in the staff report to the Coastal Commission.

Summary:

It is important to note that there was an extensive review and evaluation of this project conducted by the City, including a review of the biological aspects of the project, along with an environmental analysis. Much of this documentation is referenced in the City staff report, but these documents were not included in the staff report sent to the Coastal Commission. It is the

position of the City that these environmental documents and other project review documents referenced in this letter have a substantial bearing on the issue of whether or not the project's potential impacts were properly analyzed and evaluated. It is therefore requested that all the previous reports and analyses that have been transmitted to the Coastal Commission be made available to the Commissioners as part of the Appeal Hearing Process.

Sincerely,



George Hansen
Community Development Director

cc: Martin Koczanowicz, City Attorney
Robert Perrault, City Manager

File

BELSHER & BECKER

ATTORNEYS AT LAW

412 MARSH STREET

SAN LUIS OBISPO, CALIFORNIA 93401

JOHN W. BELSHER
HOWARD MARK BECKER
STEVEN P. ROBERTS
GREGORY A. CONNELL

TELEPHONE (805) 542-9900

FAX (805) 542-9949

E-MAIL slolaw@belsherandbecker.com

November 13, 2007

Via email

California Coastal Commissioners
C/o Jonathan Bishop
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, California 95060

**RE: Appeal No. A-3-GRB-07-051; Pacific Coast Hotel, 105 W Grand Avenue
at Highway 1, Grover Beach, California**

Dear Commissioners:

This firm represents the local owner developing the Pacific Coast Hotel at the intersection of Grand Avenue and Highway 1 (Dolliver) in Grover Beach, California. The owner requests that should the Commission find a substantial issue, then the full hearing on the matter should not go forward at this November meeting, but it should be re-noticed for a date in the future. This will give time for the applicant to work with staff on the several issues involved.

The property in question is one acre gross and approximately 26,270 sq. ft. net. It is the degraded site of a former gas station which operated for many years. It is at the entrance to the State Park and connects with the planned Visitor Conference Center anticipated in the LCP and for many years. The project has the full support of the City.

The applicant generally disputes the claims in the staff report as well as the assertions in the appeal. The project will not affect public views or access, but provide visitor serving needs by its commercial retail and public hotel rooms. Since no housing is being displaced, and the project is appropriately located in the Coastal Planned Commercial (C-P-C) zone, this project is a positive step to fulfill visitor serving needs and is otherwise consistent with Coastal Act, the LCP and relevant policies.

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NOV 14 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Sincerely,

BELSHER & BECKER

JOHN W. BELSHER



File

October 18, 2007

Commissioner Patrick Kruer, Chair
Alternate Commissioner April Vargas
45 Fremont St.
Suite 2000
San Francisco, CA 94105-2219

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OCT 29 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Appeal Case No. A-3-GRB-07-051

Dear Commissioners Kruer and Vargas,

I am submitting this letter to enhance your understanding of my personal point of view, rather than any presupposed supposition of the average development company that is too often tinged with the connotation of greed and lack of understanding of the environment.

First, please indulge me, as I wish to give you a brief image of who I am. I was born and raised in California, as were my wife and four boys. When I was a child in Bakersfield my father taught me to sail, which lead me to work on boats to put myself through school. I chose Newport Beach for college as it gave me the opportunity to be outdoors, to sail and surf. After graduation I returned home and eventually relocated with my family in San Luis Obispo County, where I met my wife prior to her graduation from Cal Poly San Luis. One of the reasons we chose Grover Beach was to be near the ocean where I still try to take my youngest son surfing twice a week. I am also a member of the Pale Kai Outrigger canoe-paddling club. My love of the outdoors does not cease at the ocean, as I have climbed Mount Whitney at least seven times, as well as Mount Shasta and alas, a failed attempt at Mount Rainier, which I may decide to try again some day. In addition my wife and I still hike and bike even after twenty-one years of marriage.

As a building contractor I started from the ground up, and have often been seen working with my men and I especially love to create landscaping when a client gives me free reign. When my reputation began to increase I became involved with a former client who had hired our firm to finish a portion of a shopping mall. This led me to begin what I envisioned as an opportunity to improve and beautify Grover Beach in a positive manner. I worked with the City Council on their plans for redevelopment of the downtown corridor and shared my dreams with their Panel over a two-year period.

When the plans for the development under appeal began, it was always my intention to do what was best for the California Coastline, as well as for the City. We hired a reputable firm to work not only with us, but also within the confines of what the Coastal Commission wanted. We went to Santa Cruz to meet with Jonathan Bishop, of your Central Coast Office in Santa Cruz. We implemented his ideas for the project, and we voluntarily designed the building well below the Commission's standards whenever we felt it would behoove the look and feel of our environment. This was a two-year process in which the City of Grover Beach also participated.



October 18, 2007
California Coastal Commission

For the sake of background only, I am including a visual schematic of our lot. Our lot was used previously for a gas station. This was some time ago and has been environmentally checked for our usage. We are located at the corner of Grand Avenue and Highway One, across from the Southern Pacific Railway; adjacent to a narrow parcel owned by the Le Sage Trailer Home Park and a Creek, and a State owned Beachfront parcel upon which the State and the City of Grover Beach plan to someday build a Beachfront lodge. Incidentally, the Creek is not part of our property, but we have voluntarily indicated that we would do everything within our capabilities to make certain that we would create an environmentally viable Creek Habitat between our property and the site of the Creek. Our biologist has indicated that little to nothing has been done to restore the natural habitat since the 1980's and has recommended that we can increase the habitat by working with native plants indigenous to the area.

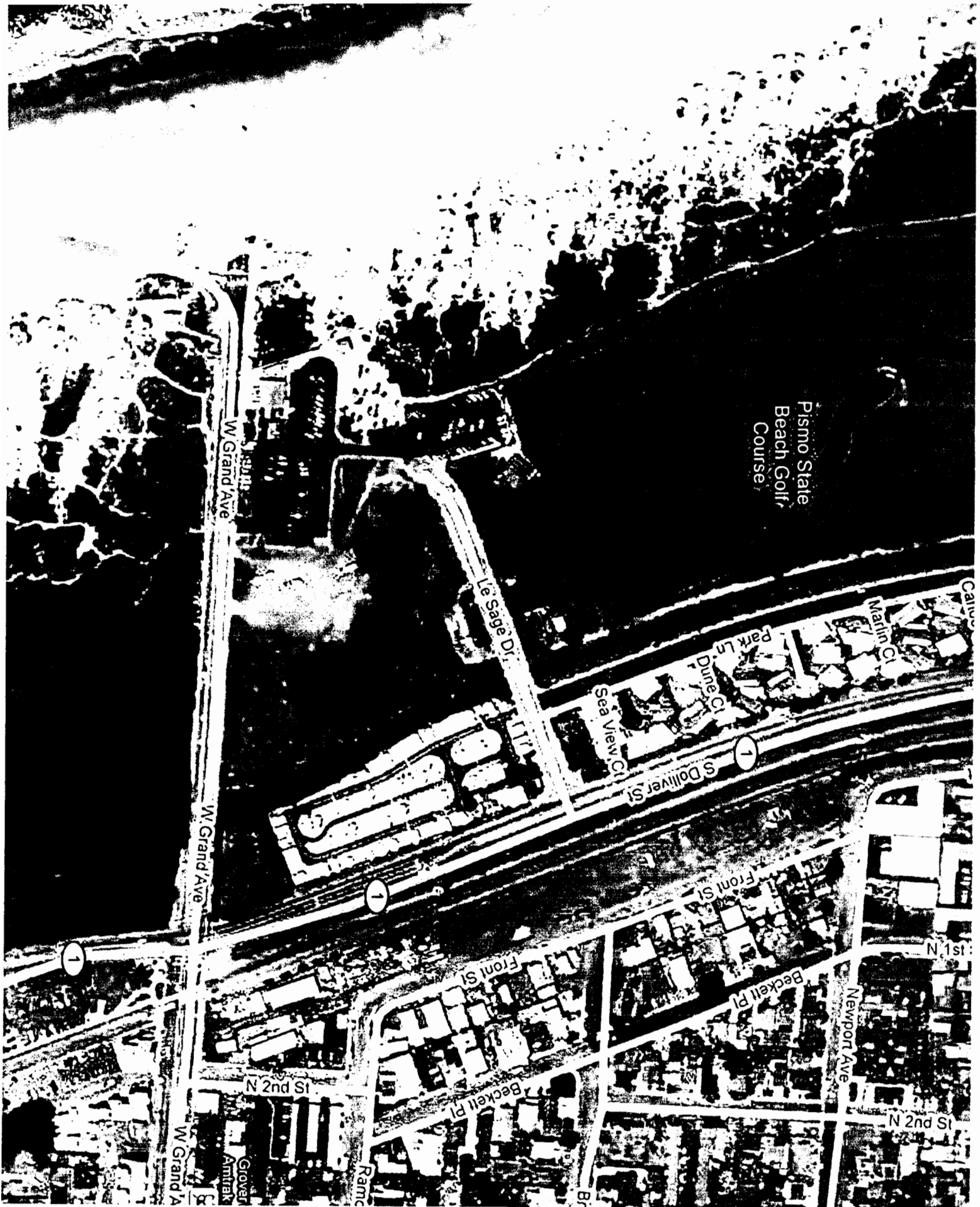
It has been many years since I began building, but I have always made every effort to try to be environmentally sound and to do whatever I could to enhance my community. I would like to extend an invitation to you and to the Commissioners to visit our site, at which time I will be more than happy to give you a personal tour. With this in mind, I wish to thank you for your consideration of our project, and look forward to working with you to clarify any questions you may have. We are open to any and all queries you may have.

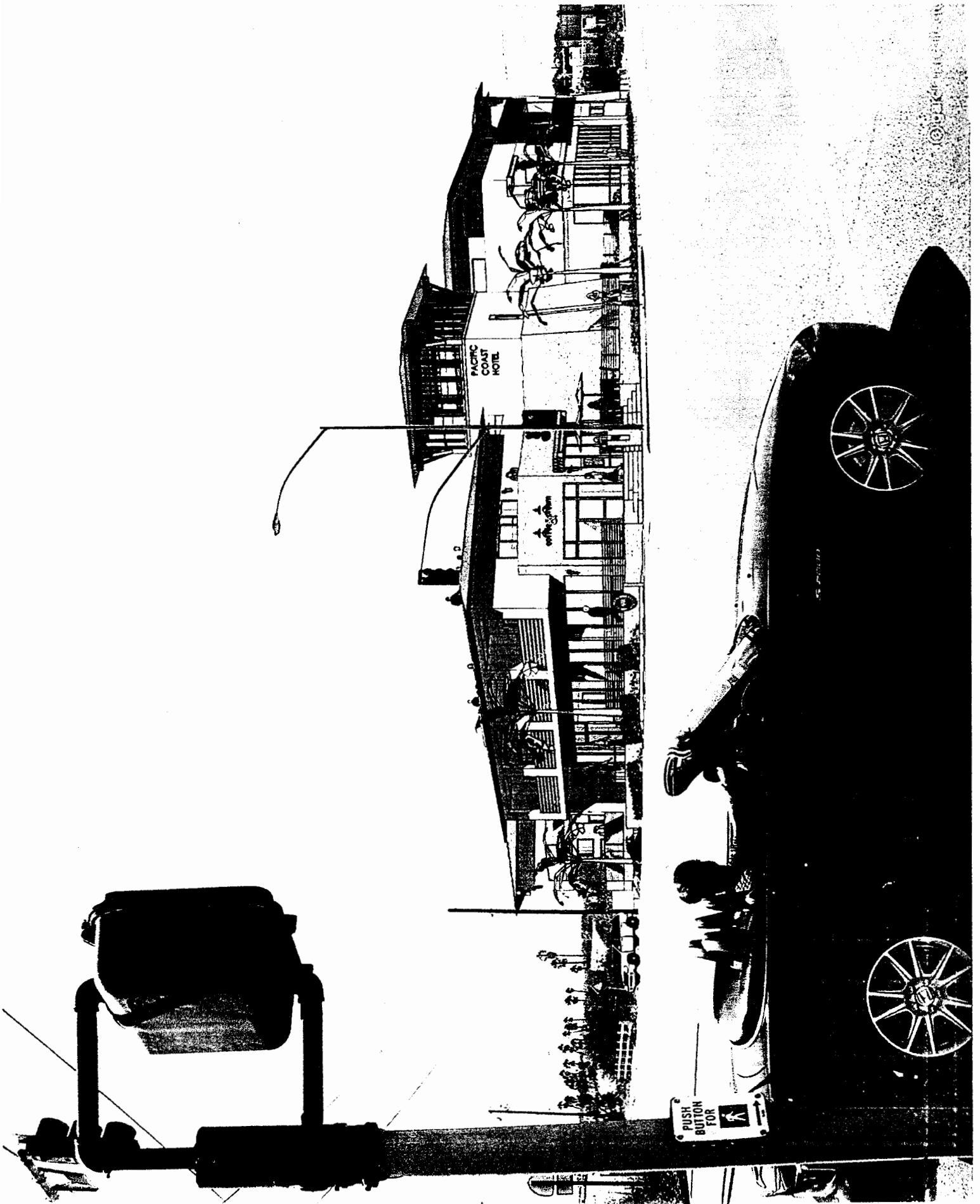
Respectfully Submitted, .

Ronald W. Perkins
IGIT Incorporated

Cc: Jonathan Bishop, Coastal Program Analyst
Commissioner Blank
Commissioner Kram
Commissioner Wan
Commissioner Shallenberger
Commissioner Burke
Representative Khatchik Achadjian
Commissioner Neeley
Commissioner Reilly
Commissioner Potter
Commissioner Clark
Commissioner Hueso

Michael Chrisman	Alternate Suja Lowenthal
Karen Scarborough	Alternate Lorena Gonzales
Brian Baird	Alternate Steve Kinsey
Paul Thayer	
Dale Bonner	
James Bourgart	
Alternate James Wickett	
Alternate Dan Secord	
Alternate Sharon Wright	
Alternate Deborah Schoenbaum	
Alternate Adi Liberman	
Alternate Brooks Firestone	





F11c

Le Sage Riviera

Mobilehome & Recreational Vehicle Park

Telephone 805-489-5506

Division of Le Sage Enterprises, Inc.

Fax 805-489-2103

319 North Highway 1
Grover Beach, California 93433
www.lesageriviera.com
lesage.beach@sbcglobal.net

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NOV 09 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Re: Permit Number A-3-GRB-07-051 Item Number F11c

To Whom It May Concern:

Please accept this letter as our formal written objection to the proposed development located at 105 Grand Avenue (intersection of Grande Avenue and Highway 1 adjacent to Meadow Creek), Grover Beach, CA (San Luis Obispo County) (APN 060-201-09).

Le Sage Riviera is the owner of the adjacent property to the north of the of the subject property (which is a Recreation Vehicle Park) in addition to owning the property adjacent to the proposed location that abuts against Meadow Creek. Le Sage Riviera had filed objections to the subject development with both the City of Grover Beach Planning Commission and the City Council raising it's concerns about the size and density of the development. I addition, the proposed development of the condo-hotel units would be considered quasi-residential property which violated the zoning of the subject property.

Further, the proximity of the proposed development to Meadow Creek and the adjacent Recreational Vehicle Park to the north will cause an increase of problems associated the drainage problems associated with Highway 1 and Grand Avenue.

Please see the attached outline that has been provided to the City of Grover Beach out-ling the concerns that Le Sage Riviera has related to the proposed development.

In advance, thank you for your anticipated cooperation in the foregoing. If you have any question or comments, please free to contact the office.

Sincerely,

Le Sage Riviera
LE SAGE RIVIERA

Le Sage Riviera
Mobilehome & Recreational Vehicle Park

Telephone 805-489-5506

Division of Le Sage Enterprises, Inc.

Fax 805-489-2103

319 North Highway 1
Grover Beach, California 93433

www.lesageriviera.com
lesage.beach@sbcglobal.net

CITY OF GROVER BEACH

June 29, 2007

JUN 28 2007

RECEIVED
hand delivered

Office Of The City Clerk
City Of Grover Beach
154 South Eighth Street
Grover Beach, CA 93433

Re: Application No. 05-025 - 105 West Grand Avenue

To Whom It May Concern:

Pleas see the attached concerns related to the development of the proposed COMMERCIAL CONDOMINIUM HOTEL/ RETAIL DEVELOPMENT AT THE N.W. CORNER OF HWY 1 & WEST GRAND AVENUE.

In addition to the attached items and concerns, the development will have financial impact on the existing Recreational Vehicle Park. The park will lose business, no one will be willing to park next to a forty foot vertical wall which will block views, block satellite for the recreation vehicles, increase light and noise levels for the space along the south side of the Recreation Vehicle Park.

Further, the City has not addressed the current issues associated with drainage in the area. Currently when we have heavy rain, Highway 1 floods and backs up. The current drainage is unable to handle the addition water which then runs through the Recreation Vehicle Park flooding the south end of the park and washing away the spaces. The large development will increase the run off issues both into the creek and onto the adjacent recreation Vehicle Park.

Sincerely,

Le Sage Riviera

LE SAGE RIVIERA

1. Project Description:

The proposed project includes the construction of a 29,189 square retail commercial/condominium hotel development and a two and three story building complex, comprised of 20 condominium hotel units, a 2,855 square feet of visitor serving commercial space and 37 underground parking garage on an undeveloped lot. As approved by the City Planning Commission, 20 of the hotel units will be developed as condo-hotels units, with length-of-time use restrictions. The project site is a vacant .5 acre lot located adjacent to Highway 1 and directly north of Grand Avenue. The State of California Transit District right-of-way and main north/south railroad tracks are located directly to the east of the site. The property includes two parcels and has a General Plan and Zoning designations as Coastal Planned Commercial (C-P-C). A total of 37 underground parking spaces will be provided for the combined hotel and restaurant uses. A deck will be provided for hotel guest use.

2. Scale of Development:

The appellants contend that the project as proposed is too large, given the scale and character of the surrounding community and its close proximity to Meadow Creek and the adjacent Recreational Park to the north. The City of Grover Beach should ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

While the project as approved by the City Planning Commission meets all zoning ordinance provisions and no variances were requested or approved, the height of the hotel will be substantially higher than other structures in the surrounding community. The development is located within an area of primarily one-story residences to the east and a Recreational Vehicle Park to the north. The height of the hotel as approved is 3-stories and 40' high, with an observation tower that extends up to 40' high. The hotel will be 40' higher than the other structures in the surrounding community. Given the low scale of surrounding development, a height difference of 40' could be considered to be incompatible with the surrounding community.

The proposed development includes commercial/condominium hotel development and a two and three story building complex, comprised of 20 condominium hotel units, a 2,855 square feet of visitor serving commercial space and 37 underground parking garage directly adjacent to open space, where no other such large structures exist. As such, it appears the development as approved by the City will significantly "stand-out" and is not subordinate to the surrounding natural environment.

3. Public Views:

The appellants contend that the project is inconsistent with policies for protection of public views. Specifically the City did not adequately address public view impacts resulting from the project from Pacific Coast Highway or from Grand Avenue.

The development, as approved, will completely obstruct the ocean views from Pacific Coast Highway while driving south toward Oceano. The site is currently undeveloped, therefore any development will cause some view impacts. The project as approved includes commercial/condominium hotel development and a two and three story building complex, comprised of 20 condominium hotel units, a 2,855 square feet of visitor serving commercial space and 37 underground parking garage.

Pacific Coast Highway (PCH) and Grand Avenue are heavily traveled coastal road, and one of the main arteries of Grover Beach's roadways. The development as approved will significantly and potentially completely obstruct these public views.

4. Hazards:

The City did not adequately address the geological stability or flood safety of the approved development. The appellants contend that given the location of the project, adjacent to an area known for potentially liquefiable soils, further protection measures should have been addressed to better assess any possible geological or flooding hazards.

5. Protection of Low Cost Visitor Serving Uses/Condo Hotel:

The development as approved by the City does not adequately provide for low cost visitor serving uses because the 20 hotel units are proposed as condominium hotel units. Both the City of Grover Beach and the Coastal Act have identical provisions protecting low-cost visitor facilities that state:

30213

Lower cost visitor serving facilities shall be protected, encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.

As cited above, the Coastal Act gives greater priority to visitor serving uses, which include hotels and other uses that provide overnight accommodations and gives particular preference to lower cost visitor-serving accommodations. Because condo-hotel units are individually owned and subject to either no or varying length of stay restrictions, they can be considered a quasi-residential land use that only functions part time as an overnight

6. Recreational Uses:

The appellants contend that the development, as approved, would inhibit current and future recreational uses. Specifically construction of a wall separating the development from the buffer, and the innate exclusivity of condominium hotels will result in decreased recreational capacity at this location. Both the City of Grover Beach and the Coastal Act have provisions protecting recreational uses in the coastal zone and state:

City Policies:

In granting proposals for new development within the coastal zone, the City shall give priority to visitor serving commercial recreational facilities over private residential, general industrial or general commercial uses.

The City shall protect, enhance, and maximize public enjoyment of Coastal Zone public resources. There is a privately owned Recreational Park north of the lot [subject site] just west of Highway 1. The impact on the Recreation vehicle Park from the project related to the size of the project the lighting from the complex, the noise issued addressed by the Coastal Commission and drainage issues were not addressed by the City Planning Commission.

Coastal Act Policies:

30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

In summary, the City Planning Commission failed to adequately review the project for conformity with the coastal development permit process, and has not adequately addressed the development's conformity with Grover Beach standards regarding impacts to public views, adequate buffers, potential hazards, preservation of low cost visitor serving uses, and public recreation, impact on the Recreational Vehicle Park to the north of the proposed development and the lighting, noise and drainage issues for the adjacent property owners.

Further, the increase traffic on Grand Avenue associated with the underground parking which is only accessible from Grand Ave just east of the adjoining of the Recreational Vehicle Park's property west of the subject property.

**THE
PAUL DAVIS
PARTNERSHIP**
ARCHITECTS & PLANNERS

November 6, 2007

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RECEIVED

NOV 06 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Executive Director
C/O Susan Craig
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

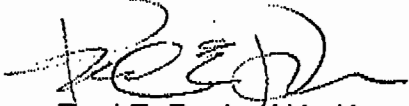
RE: Coastal Permit Application #3-07-022 (ZHG Inc. Monterey) Seawall, Monterey
Beach Hotel, 2600 Sand Dunes Drive, Monterey

We are in agreement with the staff recommendation on the above permit application
and recommend it be placed on the consent calendar for November 16, 2007.

We will be present at the meeting to answer any questions.

Thank you.

Sincerely,


Paul E. Davis, AIA (Agent for Owner)
Architect

cc: Ted Richter & Sharon Regan, Monterey Beach Hotel

PED/cpm

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